



## Office of the Attorney General

Washington, D.C. 20530

March 7, 2013

Dear Law Enforcement Partner:

Even as our economy shows signs of improvement, financial fraud remains a growing threat to so many. And it can affect even the strongest and bravest among us -- our servicemembers and veterans.

This type of financial fraud is unacceptable. Financial crimes can be just as devastating as violent ones, and can wreak havoc not just on an individual, but on whole families. We as a Nation owe an incredible debt to our servicemembers and veterans and need to work together to protect them -- just as they do us. Because of that debt, it is our responsibility to use all available tools to deter and hold accountable those who would prey upon our servicemembers and veterans for financial gain.

That is why the Department of Justice, along with State Attorneys General, have come together in an historic fashion to express our commitment to greater enforcement against these pernicious forms of financial fraud. One product of that collaboration has been a set of enforcement toolkits containing the information that United States Attorneys, JAG Legal Assistance Attorneys, and State Attorneys General need to take effective enforcement action in this area. We believe that these enforcement toolkits will increase (1) dialogue amongst law enforcement about financial scams affecting the military; (2) referrals between military, state, and federal partners of potential investigative leads; and, most importantly (3) the number of civil and criminal cases brought against those who would defraud our servicemembers and veterans.

We implore you not just to review the materials herein, but keep them handy. Use them. Talk about consumer frauds that affect the military. Encourage those affected by fraud and other deceptive practices to report. Refer matters. Bring cases. And together, we may be able to prevent and stop this insidious financial fraud.

Thank you for all you do.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric H. Holder, Jr.", is positioned above the printed name.

Eric H. Holder, Jr.  
Attorney General

## **A Message from Co-Chairs of the FFETF Consumer Protection Working Group**

Effective consumer protection requires that all levels and branches of government work together to deliver more targeted prevention and enforcement. Communication, collaboration, and responsiveness are three key components in this effort. The educated consumer is, and always will be, the very best protection against fraud and deceit.

With that collaboration in mind, President Obama established the interagency Financial Fraud Enforcement Task Force (the "FFETF") in 2009. We co-chair the Consumer Protection Working Group of that Task Force, focused on identifying threats to consumers, and working together to prevent and stop them.

The public that we protect is also safeguarded by those who defend us all – our active duty and reserve military servicemembers. Many of us know someone who has served in our Armed Forces. We all share an appreciation of the sacrifices made by those who protect us. Our service members don't ask for glory or to be described as heroes. They simply want to do their jobs, come home to their families, and enjoy the same freedoms and protections as others in America.

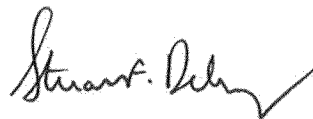
That is why financial scams directed at servicemembers, veterans and their families are so insidious – and why we have made stopping them a priority of the Consumer Protection Working Group. One way to demonstrate our thanks to those who give so much is to raise awareness, within the military and among those in law enforcement, about the specific consumer threats facing servicemembers and also to help build comprehensive strategy to target those threats.

This toolkit is designed to provide an overview of common consumer scams affecting the military, applicable federal and state laws, available federal and state partners, models for outreach to the military community, and sample legal materials to assist United States Attorneys and their AUSAs in bringing more enforcement in this area. We know that United States Attorney's Offices around the country are engaged in the same effort – conducting fraud prevention training in Bridgeport Connecticut, and base visits in Pensacola, Florida and in the District of Kentucky, for example. Our hope is that this toolkit offers an enforcement and outreach model for others to draw from, and a guide to better understanding some of the challenges faced by our servicemembers and their families.

To those reading this toolkit who have served in our military, we thank you for your sacrifice. To those US Attorneys seeking to bring more actions addressing fraud on servicemembers and their families, we hope that this toolkit provides a useful template for you and we look forward to working with you in the days to come.



André Birotte Jr.  
United States Attorney  
Central District of California



Stuart F. Delery  
Principal Deputy Assistant  
Attorney General  
Civil Division  
Department of Justice

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# Coordinating Prevention, Outreach, and Enforcement Efforts

Vigorous enforcement of our federal consumer protection laws is a core function for the Department of Justice and for all of the United States Attorney's Offices throughout the country. Our consumer protection enforcement efforts take place in the nation's federal courts where our lawyers represent the United States in criminal and civil actions.

Protecting the consumer from fraud and deceit may begin with our work in our federal courts, but it does not end there. The educated consumer is really the best defense to fraud and effective consumer protection requires community outreach and education, in addition to enforcement, in order to help prevent the public from being victimized.

Indeed, enforcement is enhanced when it is conducted in coordination with prevention and outreach efforts. For the consumer, the most effective prevention and outreach efforts are those that combine local, state and federal resources, because the vast majority of consumer protection actions take place in state and local arenas.

Nowhere are these observations more true than with our military service members and their families. Military service involves deployments, rotations and relocations, as well as personal sacrifice for both the service member and his or her family. Service members and their families often don't have the time, the resources or the opportunity to take all the steps necessary to report and pursue an enforcement action.



Outreach and prevention efforts can open the doors to enforcement and resolution by creating pathways for the proper referral of complaints and inquiries. The questions most frequently asked by service members, their families, and their advocates are how they can avoid being victims of fraud and deceit and where can they go, or whom they can contact, if they think they have been victimized.

To help answer those critical questions, and to extend a hand to our Armed Forces personnel and their families, the Consumer Protection Working Group of the Financial Fraud Enforcement Task Force is engaged in a series of steps in the Central District of California and elsewhere, many of which are outlined in this booklet. We hope that these initial steps open the doors to enforcement and resolution of our consumer protection laws for service members and their families and lay the groundwork for even longer strides to come.



# Servicemember Consumer Outreach and Fraud Prevention

It is often said that the best way to fight crime is to prevent it. Nowhere is that adage more true than in the field of consumer protection. In the Central District, the United States Attorney's Office has worked with its partners at the federal, state and local level to convene events designed to reach out to service members and their families, veterans and seniors. Two of those events are detailed in the following pages.

In October 2012, the United States Attorney's Office partnered with the California Consumer Affairs Association (CCAA) to convene a two-day Consumer Protection conference in Long beach California on the campus of the California State University at Long Beach. United States Attorney Birotte participated along with AUSAs and staff from the District. The Conference was attended by over 200 professionals from across the state. The Conference kicked off with a special workshop aimed at the consumer protection problems faced by service members and their families, the first workshop of its kind in the District. The panel and workshop is described in the following pages. Established in 1974, CCAA is a non-profit association of federal, state and local government and non-profit consumer protection organizations whose primary mission is consumer protection.

On Saturday, September 22, 2012, we convened the District's first Consumer Education and Resource Fair, colloquially called "Scam Jam," to raise public awareness about common scams and frauds, and to help people avoid being victimized. The special focus of this event was outreach to the elderly and to service members and veterans who are often the target of scams and cons, but who may not be able to easily report such crimes. A panel of consumer protection experts, along with representatives of various agencies, including the FTC, the USCIS, and the California National Guard, addressed subjects ranging from mortgage fraud and identity theft to the illegal practice of immigration law and false advertisements. The event, organized and hosted by the U.S. Attorney's Office for the Central District of California and the Los Angeles County Department of Consumer Affairs, was attended by local community members, veterans and service members and ran from 8:30 a.m.-1 p.m. at the All Peoples Community Center at 822 E. 20th Street in Central Los Angeles. Subjects addressed during the fair included "notario" fraud, abusive debt collectors, fake lotteries and telemarketing scams. Federal, state and local agencies also provided on-site information, counseling and complaint intake. Services were provided in English and Spanish. "heads of the household" could attend. The event was part of the national effort of the Department of Justice's Financial Fraud Enforcement Task Force (FFETF). For more information on the FFETF, please visit [www.stopfraud.gov](http://www.stopfraud.gov)



*Shown are participants at the 2012 Consumer Education and Resource Fair: Leonardo Afortuna, Consuello Mackey, André Birotte Jr., Ricky Ricardo, Dr. Sandra Moor, Brian Stiger, Brigadier General Sylvia Crockett of the California National Guard, and Major Jay Coggan of the California National Guard.*



# CALIFORNIA CONSUMER AFFAIRS ASSOCIATION

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## CALIFORNIA CONSUMER AFFAIRS ASSOCIATION 37TH ANNUAL CONFERENCE

Monday & Tuesday, October 29 – 30, 2012

California State University Long Beach - The Pointe Conference Center  
1250 Bellflower Boulevard, Long Beach, CA 90840

### MONDAY, OCTOBER 29, 2012

- |   |  |
|---|--|
| <p><b>7:30 a.m.</b></p> <p><b>8:30 a.m.</b></p> <p><b>8:40 a.m.</b></p> <p><b>9:10 a.m.</b></p> <p><b>9:40 a.m.</b></p> <p><b>10:55 a.m.</b></p> <p><b>11:00 a.m.</b></p> | <p><b>Registration, Continental Breakfast</b></p> <p><b>Welcome:</b> Rigo Reyes, President, CCAA</p> <p><b>Opening Remarks:</b> <i>The role of higher learning institutions in advancing consumer protection</i><br/><b>Dr. Donald J. Para</b>, Provost &amp; Senior Vice President for Academic Affairs, California State University Long Beach</p> <p><b>Consumer Financial Protection Bureau:</b> <i>Creating a consumer finance marketplace that works for American consumers, responsible providers, and the economy as a whole</i><br/><b>Edwin Chow</b>, Western Regional Director, CFPB</p> <p><b>Frauds and Scams Targeting Military Service Members and their Families</b><br/><b>Moderator*/Speakers:</b></p> <ul style="list-style-type: none"><li>▪ <b>Bruce Riordan*</b>, Special Counsel, U.S. Attorney's Office, Central District of California</li><li>▪ <b>Major Jay M. Coggan</b>, Command Judge Advocate, California Army National Guard</li><li>▪ <b>Marshall W. Thomas</b>, Ed.D., Director, Veterans Affairs Services, California State University, Long Beach</li><li>▪ <b>Roland A. Arteaga</b>, President/CEO, Defense Credit Union Council</li><li>▪ <b>Nicklas A. Akers</b>, Supervising Deputy Attorney General, California Attorney General's Office</li></ul> <p><b>Break</b></p> <p><b>Student Debt: Defaults, Collections, for-Profit Schools</b><br/><b>Moderator*/Speakers:</b></p> <ul style="list-style-type: none"><li>▪ <b>Pastor Herrera, Jr.*</b>, Adjunct Professor, Department of Family &amp; Consumer Sciences, California State University Northridge</li><li>▪ <b>Rohit Chopra</b>, Student Loan Ombudsman, Consumer Financial Protection Bureau</li><li>▪ <b>Robyn Smith</b>, Attorney, National Consumer Law Center</li><li>▪ <b>Wendy Reiboldt</b>, Ph.D., Professor &amp; Chair, Department of Family &amp; Consumer Sciences, California State University Long Beach</li></ul> |
|---|--|

- 12:00 p.m.      *Lunch***
- 12:20 p.m.      *Keynote Speaker: Consumer Protection in the 21<sup>st</sup> Century***  
**U.S. Attorney André Birotte Jr., United States Attorney's Office – Central District of California**
- 1:00 p.m.      *Keynote Speaker: License to Serve: Licensing as a Tool to Protect Consumers, Businesses and Communities***  
**Secretary Anna M. Caballero, California State & Consumer Services Agency**
- 1:30 p.m.      *Debt Collections: Abuse, Enforcement, Solutions***  
**Moderator\*/Speakers:**
- **Ann Stahl\***, Senior Investigator, Federal Trade Commission
  - **Sen. Joe Dunn (Ret.)**, Executive Director/CEO, California State Bar
  - **Christina Tusan**, Attorney, Federal Trade Commission – Western Region
  - **Michele Van Gelderen**, Supervising Deputy Attorney General, California Attorney General's Office – Consumer Protection Unit
  - **Rigo Reyes**, Chief Investigator, County of Los Angeles Department of Consumer Affairs
- 2:30 p.m.      *Consumer Privacy in an Open Digital World***  
**Moderator\*/Speakers:**
- **Joanne McNabb\***, Director of Privacy Education and Policy, California Attorney General's Office
  - **Beth Givens**, Executive Director, Privacy Rights Clearinghouse
  - **Pam Dixon**, Executive Director, World Privacy Forum
- 3:30 p.m.      *Break***
- 3:40 p.m.      *Consumers' Right to Chose***  
**Elizabeth Owen, Fan Freedom Project Foundation**
- 3:55 p.m.      *Scam-O-rama: Discussion of Current and Emerging Consumer Frauds and Issues***  
**Facilitators:**
- **David Ball**, Senior Investigator, Marin County District Attorney's Office
  - **Laurel Pallock**, Senior Investigator, San Francisco District Attorney's Office
- 5:30 p.m.      *Closing***
- 5:30 p.m.      *Reception & CCAA Business Meeting***
- Networking
  - CCAA elections
  - Strategic planning

**TUESDAY, OCTOBER 30, 2012**

**7:30 a.m.      *Registration, Refreshments***

**8:30 a.m.      *Welcome:***

**Kenneth I. Millar, Ph.D.,** Dean, College of Health and Human Services, California State University Long Beach

**9:00 a.m.      *Health Care Fraud and Issues***

**Moderator\*/Speakers:**

- **Rosario Quintanilla Vior**, Public Affairs Specialist, U.S. Food and Drug Administration, Los Angeles District
- **Matthew McLaughlin**, Supervising Agent, FBI, Los Angeles
- **Gary Coody**, Consumer Safety Officer, U.S. Food and Drug Administration, Office of Enforcement
- **Glenn Ferry**, Special Agent in Charge, U.S. Department of Health & Human Services, Office of Inspector General, Office of Investigations.
- **Rita Singhal**, MD, MPH, Medical Director, Office of Women's Health – Los Angeles County Department of Public Health
- **Jen Flory, Esq.**, Director, Cancer Legal Resource Center-Los Angeles

**10:30 a.m.      *Break***

**10:45 a.m.      *Investment Crimes: Securities, Ponzi Scams, Affinity Crimes***

**Moderator\*/Speakers:**

- **Paula Rockenstein\***, Consumer Affairs Specialist, Santa Monica City Attorney's Office
- **Andrew Brown**, Assistant U.S. Attorney, U.S. Attorney's Office – Central District of California
- **Mark Trachtenberg**, US Postal Inspector, U.S. Postal Inspection Service
- **Anne Crews**, Vice President, Government Relations, Mary Kay Inc.
- **Adam Radinsky**, Supervising Deputy City Attorney, Santa Monica City Attorney's Office – Consumer Protection Division

**12:00 p.m.      *Lunch***

**12:20 p.m.      *Featured Speaker: Local Consumer Protection: Serving consumers, businesses, and communities through education, advocacy, and complaint resolution***

**Brian J. Stiger**, Director, County of Los Angeles Dept. of Consumer Affairs

**12:40 p.m.      *Keynote Address: Role of the Legal Community in Protecting California Consumers***

**Sen. Joe Dunn (ret.)**, Executive Director/CEO, California State Bar

**1:00 p.m.      *Legal Aid for Low-income Consumers***

**Moderator\*/Speakers:**

- **Magdalena Reyes Bordeaux\***, Senior Staff Attorney, Public Counsel
- **Ted Mermin**, Executive Director, Public Good Law Center
- **Charles Evan**, Staff Attorney, Legal Aid Foundation of Los Angeles
- **Ashley Parris**, Staff Attorney, Inner City Law Center - Housing Litigation
- **Brian Bilford**, Staff Attorney, Neighborhood Legal Services
- **Gus May**, Staff Attorney, Bet Tzedek Legal Services

**2:15 p.m.      *Break***

**2:25 p.m.      *Mortgage Fraud: Where We Are, What We Can do Together***

**Moderator\*/Speakers:**

- **Wayne Bell\***, Chief Counsel, California Dept. of Real Estate
- **Evan Davis**, Assistant U.S. Attorney, United States Attorney's Office – Central District of California
- **Ben Diehl**, Supervising Deputy Attorney General, California Attorney General's Office - Mortgage Fraud Strike Force
- **Tom Layton**, Investigator, California State Bar
- **Dawnnesha Smith**, Supervising Investigator, County of Los Angeles Department of Consumer Affairs – Real Estate Fraud Investigations
- **Sgt. Dana McCants**, Los Angeles Sheriff's Dept. – Real Estate Fraud Unit
- **Lori R. Gay**, President/CEO, Neighborhood Housing Services of Los Angeles County

**3:45 p.m.      *Immigration Fraud & the Unlawful Practice of Law: Strategies to Detect, Prevent and Combat this Crime***

**Moderator\*/Speakers:**

**Phyllis A. Coven\***, District Director, U.S. Citizenship and Immigration Services

- **Rozella Oliver**, Assistant U.S. Attorney, U.S. Attorney's Office – Central District of California
- **Tom Syta**, Assistant Regional Director, Federal Trade Commission
- **Stanley P. Williams**, Head Deputy District Attorney, Los Angeles County District Attorney's Office – Consumer Protection Division
- **Maggie Becerra**, Supervising Investigator, County of Los Angeles Department of Consumer Affairs
- **Angela Sierra**, Supervising Deputy Attorney General, California Attorney General's Office – Civil Rights Division
- **Daniel Sharp**, Legal Director, Central American Resource Center; Co-Chair, Unauthorized Practice of Law Committee, Los Angeles County Bar Association & American Immigration Lawyers Association - Southern California Chapter

**5:00 p.m.      *Closing: CCAA President Elect***

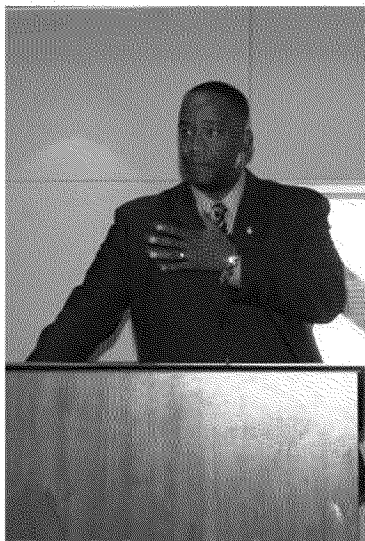
# CCAA Workshop Report

**Oct 29, 2012 CCAA Conference at California State University at Long Beach (CSULB): Consumer Protection for Military Servicemembers and their Families - Moderator\*/Speakers:**



- **Bruce Riordan\***, Special Counsel, U.S. Attorney's Office, Central District of California
- **Major Jay M. Coggan**, Command Judge Advocate, California Army National Guard (CANG)
- **Marshall W. Thomas**, Ed.D., Director, Veterans Affairs Services, California State University, Long Beach
- **Roland A. Arteaga**, President/CEO, Defense Credit Union Council
- **Nicklas A. Akers**, Supervising Deputy Attorney General, California Attorney General's Office (Major in CANG Reserves)

The panel described above was convened by the CDCA and it kicked off the two-day California Consumer Affairs Association (CCAA) Conference at CSULB. Established in 1974, CCAA is a non-profit association of federal, state and local government and non-profit consumer protection organizations whose primary mission is consumer protection.



**CDCA USA André Birotte Jr.** followed the panel with a Keynote Speech describing the Department's enhanced and renewed efforts to protect consumers. USA Birotte was joined by Anna Caballero, California Secretary of Consumer Affairs; Brian Stiger, Director of the Los Angeles County Department of Consumer Affairs; Rigoberto Reyes, the President of CCAA; and Tom Syta, the Deputy Regional Director for the FTC, and Joe Dunn, Executive Director and CEO of the California State Bar, among others.

In summary, **USA Birotte** observed that this panel/workshop was an excellent "first step" and he noted that this panel needs to be a model for others like it and "the beginning of a much longer conversation."

The CDCA believes that the panel/workshop was a successful step forward and we received very positive feedback from the audience of over 250 registered Consumer Affairs professionals, both during the panel session and later during the afternoon "brainstorming session" that concluded the first day of the Conference.

It was noted that in California alone, we have over 120,000 active service members and almost 60,000 additional California National Guard personnel that are designated as "active." And those numbers don't include family members, estimated to bring the numbers closer to 400,000 persons impacted in this State alone. So the issue has great relevance in California, as in many other states.

Several recurring issues came up during the Conference and we wanted to circulate this report internally so we can consider them going forward:

A general consensus emerged that the first priority is the overall need and value of education for service members and their families – this includes the following priority areas:

1. Educating State and Local Bar Associations about legal issues affecting service members and their families so that local attorneys can assist in enforcing civil remedies designed to protect them.
2. Providing service members, reservists and their families with effective financial and credit education, including information about "predatory lending" and "fraudulent pay day lending practices," and banking and credit alternatives such as the 210 Credit Unions that operate on military installations worldwide.
3. Enhancing services to assist Veterans, both young and old, with understanding and responsibly using GI benefits such as the GI Bill. It was observed that use of the GI Bill is expected to rise dramatically over the next five years. Prof. Thomas noted that in California most veterans start at community colleges and then transfer to the "Cal- State" system where he works. He observed that the graduation rate is about 60 percent for non-military students in the Cal-State system but less than 30 per cent for veterans and reservists; a very noteworthy discrepancy. And the issue of fraud and deceit, or of less than fair dealing, by "for-profit colleges" was raised again and again as a major concern. (N.B., the Conference was held on the campus of a public not-for-profit college, and the CSULB faculty had a lot of direct experience with the rise of "for-profit education.")

Beyond education, other potential services discussed included:

1. "Licensing assistance" for returning veterans. The Secretary for Consumer Affairs for the State of California described how California is "streamlining" the process of translating the skills of returning veterans to stateside jobs and professions by assisting the veterans with special skillsets to obtain state professional licenses. For example, 300 veterans with military investigators backgrounds have been helped to obtain California investigators licenses so that they can lawfully work in the State.
2. Creative public relations efforts such as PSAs aimed at getting the message out about the dangers of "for profit schools" and "payday lenders." Other ideas such as "consumer alerts" for veterans and servicemembers were also raised.
3. Tool kits. We raised the "Tool kit" concept and it met with general approval from the audience - as did the creation of additional "literature" that people can use. People suggested anyone seeking to create a "tool kit" should first try and find a good "exemplar" of a working tool kit to use as a model. People with direct experience with servicemembers suggested the key audience is not only servicemembers but also their families because servicemembers' households are often run by the family member while the servicemember is deployed.

Two additional "miscellaneous" issues were raised.

1. A recurring theme was a need to focus on access to Health Care Benefits for veterans and servicemembers and on Health Care Fraud involving veterans and servicemembers. This area was beyond the scope of our panel but that all agreed that issue was one to keep on the radar - in particular given that many returning veterans will have seen active service in a war zone over the past decade.
2. The "chronic issue of Homeless Veterans" also came up – a serious problem in parts of our District and we shared this point to make us keep it on the radar.

"Resources" discussed included:

1. The creation of dedicated websites for fraud on servicemembers. Along these lines, Roland Arteaga of the Defense Credit Union Council had suggestions for existing sources. He advised people to look at the BBB Military line at <http://www.bbb.org/us/military-line/>. And representatives of the FTC pointed people to the FTC Sentinel/Military website: <http://www.ftc.gov/sentinel/military/index.shtml>



2. Defense Credit Unions on military installations worldwide.
3. DCUss are also a resource for servicemembers. It was observed that the defense credit unions are "a trusted agent" for servicemembers and their families and that they are often the best sources of fair and honest credit for servicemembers and their families.

White papers and further research:

1. It was also recommended that CCAA commission a "white paper" to research:
  - Current services available to service members and their families.
  - Ways to "seamlessly connect" current services with service members and their families.
  - Unmet needs of service members and their families.
  - Recommendations on how to address unmet needs.

## SCAM JAM 2012

*Consumer Assistance,  
Education, and Resources Fair*

### What is Scam Jam 2012?

This consumer protection fair is for consumers and military servicemembers to:

- ☐ Learn about common consumer frauds, avoid getting ripped off, and get help in resolving complaints, such as:
  - Foreclosures and real estate fraud
  - Abusive collection agencies
  - Identity theft crimes
  - Fraudulent immigration consultants, notarios, and paralegals
  - Phony diplomas, education scams, false scholarship promises
  - Phony investments and pyramid scams
  - Employment-related rip-offs
  - Bad car purchases, repairs, repossessions
  - Predatory payday lenders, car title loans
- ☐ Learn consumer protection rights and resources for military servicemembers and their families
- ☐ Get one-on-one assistance in resolving their consumer complaints

#### Information & Questions:

Gymeka Williams, US Attorney's Office  
213-894-5202, [Gymeka.Williams@usdoj.gov](mailto:Gymeka.Williams@usdoj.gov)

Leticia Ortiz, All Peoples Community Center  
213-747-6357, [lortiz@allpeoplescc.org](mailto:lortiz@allpeoplescc.org)

## SCAM JAM 2012

Brought to You by:



United States Department of Justice

Phone: 213-894-2400

Website: [www.justice.gov](http://www.justice.gov)



County of Los Angeles

Department of Consumer Affairs

Phone: 1-800-593-8222

Website: [www.dca.lacounty.gov](http://www.dca.lacounty.gov)



All Peoples Community Center

Phone: (213) 747- 6357

Website: [www.allpeoplescc.org](http://www.allpeoplescc.org)



California National Guard

Phone: 916-854-3000

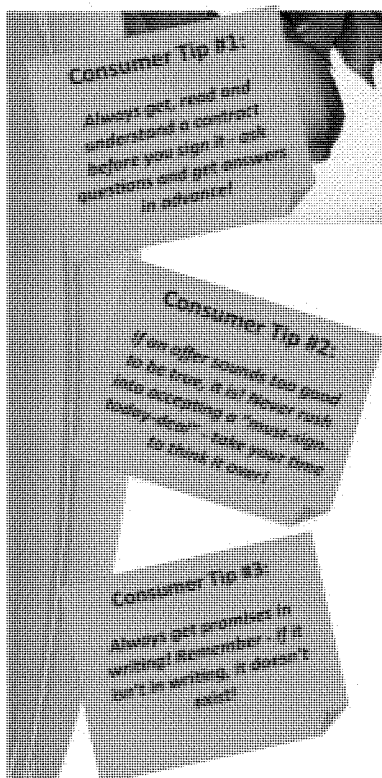
Website: [www.calguard.ca.gov](http://www.calguard.ca.gov)

**SCAM JAM 2012**  
*Consumer Assistance, Education, and Resources Fair*

- Spotting & Avoiding Common Consumer Scams
- Fighting and Preventing Scams Targeting Military Personnel
- Getting Help Resolving Complaints

**Saturday, September 22, 2012**  
9 a.m. – 1 p.m.

All Peoples Community Center  
422 E. 20th Street  
Los Angeles, CA 90011



## SCAM JAM 2012

*Consumer Assistance, Education, & Resources Fair*

8:30 a.m. Registration

9:00 a.m. Welcome & Opening Remarks

- Sandra Bryant, Director, All Peoples Community Center
- André Birotte Jr., US Attorney, Central District of California, U.S. Department of Justice
- Brian J. Stiger, Director, County of Los Angeles Department of Consumer Affairs
- Brigadier General Sylvia Crockett, California National Guard
- Phyllis Coven, District Director, US Citizenship & Immigration Services

9:30 a.m. Scams and Issues Harming Consumers and Military Servicemembers and their Families

- Moderator/Panel: Rigo Reyes, Chief Investigator, LA County Dept. of Consumer Affairs
- Scams targeting military personnel: Bad for-profit schools, abusive debt collectors
  - Retail Sales: False advertising, refunds, door-to-door sales, warranties
  - Landlord & Tenant Disputes: Evictions, repairs, rent increases, tenants in foreclosure
  - Mortgage Fraud: Foreclosures, loan modifications, home stealing
  - Cars Purchases: Pricing, financing, repairs, insurance, repossessions
  - Identity Theft: Credit card fraud, government and health benefits, bank accounts
  - Immigration Fraud: Phony lawyers, notarios, consultants, paralegals
  - Employment Scams: Work-at-home scams, mystery shoppers
  - Abusive Debt Collectors: Harassment and threats, invalid accounts

10:30 a.m. One-on-one Consumer Assistance:

- Help for military servicemembers and their families
- Immigration fraud and fraudulent "notarios," consultants, paralegals
- Identity theft, credit card fraud, government/health benefits, bank accounts
- Mortgage fraud, foreclosures, loan modifications
- Contracts, false advertising, door-to-door sales, warranties
- Abusive debt collectors, harassment and threats, invalid accounts
- Evictions, repairs, rent increases, tenants in foreclosure
- Car purchases, financing, repairs, insurance, repossessions
- Telemarketing fraud, fake lotteries, work-at-home scams, phony prizes
- All Peoples Community Center's services, resources

12:30 p.m. Awards and Closing Remarks

- USA André Birotte Jr.

# "SCAM JAM 2012"

Sat., Sept. 22, 2012

8:30 a.m. – 1 p.m.

*Hosted By:*

United States Attorney's Office  
Central District of California



All Peoples  
Community Center



California  
National Guard



County of Los Angeles  
Dept. of Consumer Affairs

## GET HELP WITH CONSUMER ISSUES, INCLUDING:

- Help for military personnel and their families
- Immigration fraud and fraudulent "notarios," consultants, paralegals
- Identity theft, credit card fraud, government/health benefits, bank accounts
- Mortgage fraud, foreclosures, loan modifications
- Contracts, false ads, door-to-door sales, warranties
- Abusive debt collectors, threats, invalid accounts
- Evictions, repairs, rent increases
- Car purchases, financing, repairs, repossessions
- Telemarketing fraud, fake lotteries, work-at-home scams, phony prizes
- Legal aid help for low-income consumers

## LOCATION:

All Peoples  
Community Center  
822 E. 20<sup>th</sup> Street  
Los Angeles, CA 90011

## INFORMATION:

213-747-6357

Day Care

Door Prizes

Spanish Translation

Refreshments

# Resource Checklists for Consumer Issues Impacting Service Members

Working at the federal, state, and local level, we have identified some common consumer protection issues facing servicemembers, veterans, and their families today.

1. Debt Collection (i.e., credit card disputes, abusive debt collectors, credit reports, credit “repair”);
2. Landlord “Tenant” (i.e., evictions, repairs, rent increases, utility shutoffs);
3. Student Loans (i.e. GI Bill funds, “for-profit” schools, student debt collections, useless education);
4. Car Purchases (i.e., repossessions, contract disputes, predatory financing, repairs, bogus add-on charges);
5. Home Ownership (i.e. foreclosure/loan modification disputes with lenders, foreclosure/loan modification rescue scams, “tenants in foreclosure”).

For each of these issues, we have attached a customized Resource Checklist designed to directly assist servicemembers, their families, and their advocates (complaint mediators, investigators, regulators) in handling a complaint related to that specific issue.

The Resource Checklists that follow were prepared with the assistance of the Los Angeles County Department of Consumer Affairs.

## Top Consumer Frauds, Issues & Resources Checklist

### DEBT COLLECTIONS & CREDIT

#### ALLEGATION:

#### ISSUES RAISED:

#### JURISDICTION & ASSISTANCE:

##### DEBT COLLECTION DISPUTES:

*Debt collectors are required to follow certain federal and state rules when engaging in debt collections, even if the consumer owes the debt.*

*Any of the "Issues Raised" would be in violation of federal and state law.*

- ☐ Invalid accounts
- ☐ Harassing phone calls
- ☐ Unlawful garnishments
- ☐ Time-barred accounts
- ☐ Unverified debt
- ☐ Reporting invalid info to credit reporting agencies
- ☐ Identity theft accounts
- ☐ Physical/legal threats
- ☐ Impersonating officials
- ☐ Lawsuit not served properly
- ☐ Discussing debt with employers, family members, friends

Consumers in Los Angeles County can contact the **County of Los Angeles Department of Consumer Affairs** for:

- ☐ One-on-one complaint resolution, counseling, information
- ☐ Investigation for possible civil or criminal prosecution
- ☐ **Phone: 800-593-8222, [www.dca.lacounty.gov](http://www.dca.lacounty.gov)**

Consumers outside Los Angeles County can contact the **Consumer Financial Protection Bureau** for:

- ☐ One-on-one complaint resolution, counseling, information
- ☐ Investigation for administrative/enforcement action
- ☐ **Phone: 855 -411-2372, [www.consumerfinance.gov/servicemembers](http://www.consumerfinance.gov/servicemembers)**

Consumers outside Los Angeles County can also contact the **Federal Trade Commission** for:

- ☐ Possible administrative and enforcement action
- ☐ Information and referrals
- ☐ **Phone: 877-382-4357, Website: [www.ftc.gov](http://www.ftc.gov)**

##### CREDIT CARD DISPUTES:

*Consumers have up to 60 days from the date they receive their statement to dispute charges they did not authorize.*

- ☐ Unauthorized charges
- ☐ Missing payments
- ☐ Defective goods/services
- ☐ Disagree with an investigation
- ☐ Reporting wrong info to credit reporting agencies
- ☐ Identity theft accounts

##### DEBT NEGOTIATION & CREDIT REPAIR SCAMS:

- ☐ Charged fees upfront
- ☐ Failure to negotiate debt
- ☐ Didn't "repair" credit report
- ☐ Didn't credit payments
- ☐ Don't return phone calls

##### CREDIT REPORT DISPUTES:

*Creditors and credit reporting agencies are required to report only accurate information on consumer credit reports.*

- ☐ Credit reporting agency won't remove incorrect information from credit report
- ☐ Creditor reporting wrong information to credit report
- ☐ Information on credit report is due to identity theft
- ☐ Credit reporting agency won't provide free annual credit report

## Fraud & Issues Impacting Military Service Members

# FORECLOSURE/LOAN MODIFICATION

ALLEGATION:	ISSUES RAISED:	JURISDICTION & ASSISTANCE:
<b>PREDATORY/ABUSIVE LOAN:</b>	<input type="checkbox"/> Interest rate too high <input type="checkbox"/> Bad loan terms, but not illegal	Service members in Los Angeles County can contact the County of Los Angeles Department of Consumer Affairs for: <input type="checkbox"/> One-on-one complaint resolution, counseling, information <input type="checkbox"/> Complaint investigation for civil or criminal prosecution <input type="checkbox"/> Phone: 800-593-8222, <a href="http://www.dca.lacounty.gov">www.dca.lacounty.gov</a> Service members outside Los Angeles County can contact the Consumer Financial Protection Bureau for: <input type="checkbox"/> One-on-one complaint resolution, counseling, information <input type="checkbox"/> Complaint investigation for administrative/enforcement action <input type="checkbox"/> Phone: 855-411-2372, <a href="http://www.consumerfinance.gov/service-members">www.consumerfinance.gov/service-members</a> Service members can also contact HUD for: <input type="checkbox"/> Referrals for approved loan modification services <input type="checkbox"/> Phone: (800) CALL-FHA or (800) 225-5342; <a href="http://www.hud.gov">www.hud.gov</a>
<b>LOAN MODIFICATION:</b>	<input type="checkbox"/> Lost documents <input type="checkbox"/> Denied modification. <input type="checkbox"/> Can't get an answer	
<b>FORECLOSURE DISPUTES:</b>	<input type="checkbox"/> Didn't follow foreclosure process <input type="checkbox"/> Sold home illegally	
<b>MORTGAGE DISPUTES:</b>	<input type="checkbox"/> Billing disputes <input type="checkbox"/> Failure to make proper disclosures <input type="checkbox"/> Misrepresentation	
<b>RECORDED DOCUMENTS:</b>	<input type="checkbox"/> "Robosigning." <input type="checkbox"/> Errors on documents <input type="checkbox"/> Inaccurate documents <input type="checkbox"/> Assignments/deed transfers done without proper recording	
<b>DUAL TRACKING:</b>	<input type="checkbox"/> No Single-Point-of-Contact <input type="checkbox"/> Home sold while negotiating loan modification	
<b>MERS VIOLATIONS:</b>	<input type="checkbox"/> Lender/servicer can't prove ownership <input type="checkbox"/> Lender is foreclosing without having proper ownership <input type="checkbox"/> Assignments/transfers done through MERS	



# Top Consumer Frauds, Issues & Resources Checklist

## LANDLORD-TENANT DISPUTES

ALLEGATION:	ISSUES RAISED:	JURISDICTION & ASSISTANCE:
<b>NOTICES:</b>	<input type="checkbox"/> Pay or Quit notice <input type="checkbox"/> Rent increase notice <input type="checkbox"/> Eviction notice <input type="checkbox"/> Change-of-terms to contract <input type="checkbox"/> Late fee notice <input type="checkbox"/> Notice to correct violation	<p>If rental property is NOT RENT-CONTROLLED, Consumers IN Los Angeles County should contact the Los Angeles County Department of Consumer Affairs for:</p> <input type="checkbox"/> One-on-one complaint resolution, counseling, information <input type="checkbox"/> Investigation for possible civil or criminal prosecution <input type="checkbox"/> Phone: 800-593-8222, <a href="http://www.dca.lacounty.gov">www.dca.lacounty.gov</a>
<b>EVICCTIONS:</b>	<input type="checkbox"/> Unlawful Detainers <input type="checkbox"/> Notice to move out <input type="checkbox"/> Eviction due to unauthorized extra tenants <input type="checkbox"/> Evicting sub-tenants <input type="checkbox"/> Evicting guests, lodgers	<p>If rental property is NOT RENT-CONTROLLED, Consumers OUTSIDE Los Angeles County should contact their consumer protection agency for:</p> <input type="checkbox"/> One-on-one complaint resolution, counseling, information <input type="checkbox"/> Investigation for possible civil or criminal prosecution <p>If rental property is RENT-CONTROLLED, consumers should contact their local Rent Stabilization Department for:</p> <input type="checkbox"/> One-on-one complaint resolution, counseling, information <input type="checkbox"/> Investigation for administrative/enforcement action
<b>REPAIRS:</b>	<input type="checkbox"/> Major repairs that put the tenant's safety or health at risk: non-working toilets and bathrooms, exposed electrical wiring, leaking roofs, lack of hot water or heating, vermin. <input type="checkbox"/> Minor repairs: worn carpets, non-working fridges and other appliances provided by the landlord, and air-conditioners.	<p>Consumers IN Los Angeles County should contact the Los Angeles County Department of Consumer Affairs for:</p> <input type="checkbox"/> One-on-one complaint mediation, counseling, and appropriate referrals to the Department of Building & Safety and Department of Health <input type="checkbox"/> Phone: 800-593-8222, <a href="http://www.dca.lacounty.gov">www.dca.lacounty.gov</a> <p>Consumers OUTSIDE Los Angeles County should contact their consumer protection agency for:</p> <input type="checkbox"/> One-on-one complaint mediation, counseling, and appropriate referrals to the Department of Building & Safety and Department of Health
<b>SECURITY DEPOSITS:</b>	<input type="checkbox"/> Illegal amount charged <input type="checkbox"/> Failure to return deposit <input type="checkbox"/> Failure to provide itemized statement <input type="checkbox"/> Failure to offer tenant "Walk Through" option <input type="checkbox"/> Deposit used for unauthorized purposes	<p>Consumers IN Los Angeles County should contact the Los Angeles County Department of Consumer Affairs for:</p> <input type="checkbox"/> One-on-one complaint resolution, counseling, information <input type="checkbox"/> Investigation for possible civil or criminal prosecution <input type="checkbox"/> Phone: 800-593-8222, <a href="http://www.dca.lacounty.gov">www.dca.lacounty.gov</a> <p>Consumers who live OUTSIDE Los Angeles County should contact their consumer protection agency for:</p> <input type="checkbox"/> One-on-one complaint resolution, counseling, information <input type="checkbox"/> Investigation for possible civil or criminal prosecution
<b>"TENANTS IN FORECLOSURE":</b>	<input type="checkbox"/> Eviction violates local, state or federal protections	
<b>RETALIATION &amp; DISCRIMINATION ALLEGATIONS:</b>	<input type="checkbox"/> Retaliation because tenant reported problem. <input type="checkbox"/> Discrimination due to tenant's race, sex, age, immigration status, children, etc.	

## Fraud & Issues Impacting Military Service Members & Their Families

# CAR PURCHASES & OWNERSHIP

ALLEGATION:	ISSUES RAISED:	JURISDICTION & ASSISTANCE:
<p><b>FALSE ADVERTISING:</b></p> <p><i>Dealers must sell the car for the advertised price, even if the consumer doesn't know/ask for it.</i></p> <p><i>Dealers have to give buyers all rebates and incentives the buyer qualifies for.</i></p> <p><i>And the dealer can't lie to consumer about the condition of the car.</i></p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Dealer refuses to sell car for advertised price.</li> <li><input type="checkbox"/> Dealer sells car to buyer for price higher than what was advertised.</li> <li><input type="checkbox"/> Dealer switches consumer to different or more expensive car.</li> <li><input type="checkbox"/> Dealer adds accessories to the contract without the consumer's consent.</li> <li><input type="checkbox"/> Dealer doesn't give the consumer rebates or incentives the consumer is entitled to.</li> <li><input type="checkbox"/> Dealer changes contract without consumer's consent.</li> <li><input type="checkbox"/> Dealer doesn't tell consumer that car is salvaged, flooded, "Lemon Law" buyback.</li> <li><input type="checkbox"/> Dealer doesn't give buyer credit for trade-in, payments made</li> </ul>	<p>Consumers in Los Angeles County can contact the <b>County of Los Angeles Department of Consumer Affairs</b> for:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> One-on-one complaint resolution, counseling, and information</li> <li><input type="checkbox"/> Complaint investigation for possible civil or criminal prosecution</li> <li><input type="checkbox"/> Phone: 800-593-8222, <a href="http://www.dca.lacounty.gov">www.dca.lacounty.gov</a></li> </ul> <p>Consumers outside Los Angeles County can contact the <b>Consumer Financial Protection Bureau</b> for:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> One-on-one complaint resolution, counseling, and information</li> <li><input type="checkbox"/> Complaint investigation for possible administrative/enforcement action</li> <li><input type="checkbox"/> Phone: 855-411-2372, <a href="http://www.consumerfinance.gov/service-members">www.consumerfinance.gov/service-members</a></li> </ul> <p>Consumers outside Los Angeles County can also contact the <b>Federal Trade Commission</b> for:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Possible administrative and enforcement action</li> <li><input type="checkbox"/> Information and referrals</li> <li><input type="checkbox"/> Phone: 877-382-4357, Website: <a href="http://www.ftc.gov">www.ftc.gov</a></li> </ul>
<p><b>FINANCING:</b></p> <p><i>Dealers that help buyers finance their car purchases are required to get buyers the lowest interest they qualify for.</i></p> <p><i>If the dealer can't get financing at the original terms, the buyer can cancel the contract without any penalty, and get back the down-payment and any trade-in.</i></p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Dealer can't get financing, refuses to cancel contract.</li> <li><input type="checkbox"/> Dealer can't get financing, asks consumer to pay fee to cancel contract.</li> <li><input type="checkbox"/> Dealer can't get financing, requests that consumer sign new contract at higher rate.</li> <li><input type="checkbox"/> Dealer can't get financing, requests that consumer pay higher down-payment.</li> <li><input type="checkbox"/> Dealer can't get financing, requests that consumer get a co-signer.</li> <li><input type="checkbox"/> Dealer can't get financing, repossesses the car.</li> <li><input type="checkbox"/> Dealer can't get financing, cancels contract, refuses to give back down-payment/ trade-in.</li> </ul>	



## Top Consumer Frauds, Issues & Resources Checklist

# STUDENT DEBT & FOR PROFIT-SCHOOLS

ALLEGATION:	ISSUES RAISED:	JURISDICTION & ASSISTANCE:
<b>FOR-PROFIT SCHOOL DISPUTES:</b>  <i>Student debt is over \$1 trillion, greater than credit card debt.</i>  <i>The average student loan borrower owes \$25,000.</i>	<input type="checkbox"/> School made promises that weren't kept <input type="checkbox"/> School closed before completing education <input type="checkbox"/> High-pressure recruiting practices <input type="checkbox"/> Financial aid problems, misrepresentations	Consumers should contact the <b>Consumer Financial Protection Bureau</b> for: <input type="checkbox"/> One-on-one complaint resolution, counseling, information <input type="checkbox"/> Investigation for administrative and/or enforcement action <input type="checkbox"/> Phone: (855) 411-2372 <input type="checkbox"/> Website: <a href="https://help.consumerfinance.gov">https://help.consumerfinance.gov</a>
<b>LOAN-RELATED DISPUTES:</b>	<input type="checkbox"/> Don't know or can't contact loan servicer <input type="checkbox"/> Disputes repaying the loan: fees, billing, deferments, forbearances <input type="checkbox"/> Unable to pay the loan: Payments are too high, defaults, collections, bankruptcy <input type="checkbox"/> Interest rate is too high <input type="checkbox"/> Debt collections fraud, abuse <input type="checkbox"/> Credit reporting disputes <input type="checkbox"/> Problem with a Federal loan (often named Stafford, Grad PLUS, Direct, or Perkins) or a private loan <input type="checkbox"/> Problem with a private (non-federal) loans: Often issued by a bank, credit union, a school, or another lending institution; might use names like "private" or "alternative" loan. <input type="checkbox"/> Problems getting a loan: Misleading terms, rates, denial, advertising, marketing, sales tactics <input type="checkbox"/> Difficulty negotiating a repayment plan with their servicer during periods of unemployment, underemployment or financial hardship,	

# Ten Common Scams & How to Avoid Them

Beyond those "Top 5," here are ten common scams that impact the broadest spectrum of consumers. Tips to avoid these scams are included. In our experience, veterans are especially receptive to outreach regarding prevention of these types of financial fraud.

## 1. **GRANDPARENT SCAM**

-- Someone calls and pretends to be your grandchild, in trouble usually in a foreign country and needing you to send them thousands of dollars, usually via Western Union or MoneyGram, in order to get out of it. In fact, your grandchild is safe and sound and these people having nothing to do with him or her and just want your money.

**TIP:** NEVER trust such calls and ALWAYS check with your grandchild by calling him or her and his or her parents.

## 2. **LOTTERY SCAM**

-- Someone calls or contacts you by mail or email and claims that you won a prize, lottery, or sweepstakes, (and often a car such as a Mercedes) but before you can get your money, you have to send in or wire money for taxes, cross-border fees, attorney's fees, and other made-up expenses.

**TIP:** NEVER send money in advance for any prize you were told you have won. If you have really won money, you NEVER have to pay in advance to receive it. It is also illegal to participate in foreign lotteries.

## 3. **SECRET SHOPPER SCAM**

-- Someone calls or writes or e-mails, stating that you have been chosen to be a secret shopper -- that is, to go into stores and evaluate their services by buying things and to evaluate MoneyGram or Western Union by sending money through these services.

*With these last two scams, often The victim receives a check in his or her name to cover the costs of the lottery fee or the amount to be sent through MoneyGram or Western Union to evaluate these services.*

*Banks often accept these checks on their face, but they are fraudulent and will be returned and the victim is responsible to pay the bank back.*

**TIP:** NEVER deposit a check from someone you do not know. If by chance you do, NEVER withdraw the money from your account until the check has fully cleared. This does not mean that the teller accepts it, because they have no way to know. Do not withdraw the money just because the funds are made available. A check being cleared can often take a month. Ask your bank to investigate any check without depositing it if you are unsure if it is real.

#### 4. **ROMANCE SCAM**

-- You meet someone on a website who pretends to fall in love with you, but is located in a foreign country so can't meet you in person. Eventually, this person starts asking for money for his or her family or to help him or her pay immigration fees or other money to get into the US to meet you.

**TIP:** NEVER send money to someone who claims to have fallen in love with you but who you have never met in person.

#### 5. **CHARITY SCAMS**

-- You are called (or receive mail or an email) and asked to give money to an appealing-sounding charity, like disabled veterans, homeless families, or the blind. This may or may not be connected to a recent tragedy, such as Hurricane Sandy. Often, you are told to leave your check under your doormat and a driver would come by to pick it up. However, 90% of the money goes to the telemarketer and the other 10% goes to an organization that is a charity in name only and the money goes into the pockets of the organizers. Sometimes it is not really a charity- and the scammer takes all the money.

**TIPS:** NEVER give money to charities you have not investigated. May we suggest the better business bureau's Wise Giving Alliance as a way to check and see how much any charity is using for actual programs rather than paying for-profit fundraisers.

Moreover, be extremely cautious when you give your money to organizations you think you know. Often, scammers will twist the name of a well-known charity just the slightest bit. Scammers will also simply use the name of a well-known charity and just have you send the check to a different address. Check with the official charity's website or your past records of giving to make sure you are giving to the organization you mean to give to.

#### 6. **INVESTMENT SCAMS**

-- You are invited to invest in something that just can't lose. Lately in Los Angeles, we are seeing solicitations for investments in movies, gold, technology, oil and gas, and real estate. Instead of going into the investment, however, your money goes into commissions for the telemarketers and big salaries for the owners and you never actually see a return. A variety of this is the Ponzi scheme, like Bernie Madoff, where you THINK you are seeing a return, but actually you are just getting paid from money new investors are putting in.

**TIP:** If it sounds too good to be true, it is. ALWAYS consult a trusted licensed advisor on any major investments. Don't even trust your friends who are having great success with such an investment – their success could simply be from Ponzi-type payments, like some of the Madoff victims.

## 7. IDENTITY THEFT

-- Identity theft occurs when personal information - such as your name, Social Security number, Driver's License or Medicare number is wrongfully obtained by fraud or deception, usually for personal financial gain, such as the unauthorized use of credit cards or opening loans in your name. Seniors are especially harmed by medical identity theft -- when personal financial information is used to obtain medical care, medical equipment, purchase drugs or submit false claims to Medicare or a private health insurance company

**TIP:** Don't respond to email, text and phone messages that ask for personal information, even if they claim to be your bank or the government. The two best ways to mitigate against becoming an identity theft victim are to monitor credit reports by obtaining a free credit report at [www.AnnualCreditReport.com](http://www.AnnualCreditReport.com) or by calling 1-877-322-8228 at least once a year and to place a credit freeze on your credit reports. DO NOT USE advertised free credit report services, because they are scams themselves. They give you one free report and then charge you continuously for others and it's almost impossible to get them to stop.

## 8. CYBER FRAUD

--Cyber Fraud involves fraud crimes where a computer and the internet are used. Most computer scams are done using email or convincing you to go to fake websites, often using social media sites such as Facebook. It usually occurs in the form of deceitful solicitations, being tricked into accessing a website that you believe to be legitimate and isn't and fraudulent transactions. Some of the more common internet scams are similar to fraud scams already covered -- they just use the internet. Add in the "Nigerian" or '419' Email Advance Fee Scam usually telling you that you won an inheritance from an unknown relative, or your bank account is needed for a foreign business to use in America.

**TIPS:** Use security software that updates automatically. NEVER give out personal information -- whether in a web form, an email, a text, or a phone message.

## 9. MORTGAGE FRAUD

-- Predatory mortgage lending and other mortgage fraud usually targets those with weak credit or in financial distress. Predatory practices can include pressuring a senior into signing a loan agreement that you cannot afford or convincing a senior to sign a loan agreement without reading it. It may also include undisclosed or excessive interest fees, prepayment penalties, balloon payments, bait and switch tactics and other frauds. One of the most common types of mortgage fraud that occur to seniors is known as a foreclosure rescue scam. It purports to allow the senior to stay in his or her home, but title to the home is given away to the fraudster and the fraudster sells the home out from under the senior.

**TIPS:** Don't take out a reverse mortgage to pay for other investments. Do not sign anything that you do not fully understand. Seek out your own free reverse mortgage

counselor, available through a HUD-approved reverse mortgage counselor by calling 888-466-3487 or checking [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov).

#### 10. **HEALTH CARE FRAUD**

--Senior citizens are frequent targets of Medicare and other health care schemes. Health care fraud schemes come in all forms—fraudulent billings, medically unnecessary services or prescriptions, kickbacks, duplicate claims, and others, and are committed by health care providers, owners of medical facilities and laboratories, suppliers of medical equipment, organized crime groups, corporations, and even by the beneficiaries, the seniors, themselves.

**TIPS:** Never sign blank insurance claim forms or give blanket authorization to a medical provider to bill for services rendered. Carefully review your insurer's explanation of the benefits statement. Call your insurer and provider if you have questions, or you did not receive your statement. Do not do business with door-to-door or telephone salespeople who tell you that services, tests or medical equipment are free. Give your insurance/Medicare identification only to those who have provided you with medical services.

#### **ADDITIONAL TIPS**

1. **Be suspicious.** Trust, but verify. Scammers use trust to their advantage.
2. **NOTHING is urgent.** Scammers will try to get you to act quickly to prevent you from using reason and common sense and from fully researching anyone or anything to which you are sending your money. If they are rushing you, chances are they are scamming you.
3. **Listen to the inner voice.** You have a lot of life experience. If your gut is smelling fish, it's because it's fishy!!
4. **Guard your personal information** – your address, your phone number, your e-mail, your bank account, your driver's license, your birth date. Never give these out to a stranger, EVER. Buy a shredder and shred your bank statements and such before you throw them out.
5. **JUST SAY NO.** Don't be afraid to hang up on someone. It's better to be rude than to be victimized. Scammer are the rudest people in the world and if you give them an inch, they will take a mile AND your money.
6. **REPORT** any fraud through the contact phone numbers and websites provided in your handouts.
7. **SHARE THIS INFORMATION WITH OTHERS-** you may help a friend or family member who is being defrauded and doesn't know where to turn.

# Resources and Contacts for Servicemember Fraud Enforcement

Outreach and engagement open doors for consumers who may not otherwise know whom to contact or where to go with inquiries, claims, and complaints. Some inquiries and complaints can be resolved informally, and some can lead to, or provide the basis for, further investigation and enforcement. This Toolkit aims to increase and enhance those federal enforcement actions.

For those identifying potential fraud against servicemembers, veterans, and their families, this section provides the following enforcement resources:

1. Federal Consumer Protection Laws;
2. State Consumer Protection Laws (by State);
3. State Attorneys General Points of Contact for Servicemember Enforcement;
4. Federal Partners for Servicemember Enforcement (and Points of Contact); and
5. Uniformed Services Worldwide Legal Assistance Directory

In addition, the Civil Division's Consumer Protection Branch is a resource for sample complaints and pleadings relating to federal consumer law. For information, sample pleadings, or simply to discuss leads, please contact Rich Goldberg, [REDACTED]@usdoj.gov, 202.307.2532.

# THE LAW

State and Federal law, and sometimes both, have provisions applicable to stop the bad practices by those that prey on service members and their families. Several provisions of law that may be applicable are summarized in this section.

## **FEDERAL LAW**

There are several provisions of Federal law of which to be aware when dealing with a complaint from a service member. Below, points of contact are listed for Federal agencies that have authority for enforcing these areas of law.

### **SCRA**

What is the SCRA? The SCRA is a federal law designed to promote and protect those who volunteer to serve our country during times of active duty service by providing a list of consumer law protections that shield them from undue legal and financial hardships. Protections of the Act that benefit RC SMs are summarized further below. The scope of the SCRA follows immediately.

In what types of proceedings is the SCRA enforceable? The SCRA is enforceable in federal and State court (including all political subdivisions and in all U.S. territories.), and it applies to civil and administrative actions, but not to criminal cases.

Who is covered under the SCRA? The SCRA applies to members of the Uniformed Services when on active duty, including the reserves of all five branches of the Armed Forces when on active duty (the SCRA is not applicable to inactive duty status, such as week-end drills). This coverage of the reserve component includes National Guardsmen only when on federal active duty status or when active under Title 32 for more than 30 days in response to a presidential declaration of national emergency. RC SMs are entitled to most of the Act's "rights and protections" on the date they receive AD orders. (Thus, the sooner SMs receive their orders in advance of actual mobilization, the better.) Coverage normally ends at REFRAD.

"Material effect" and "waiver" under the SCRA. Many of the provisions of the SCRA require a showing by the SM that there is a "material effect" on his/her ability to respond or act as normally required due to the active duty service. The rights of the SCRA can be individually waived if done so in a separate writing. A SM should always be counseled to seek legal advice before any such waiver.

Enforcement. The U.S. Attorney General has (1) civil enforcement rights under the Act where there is a pattern or practice of violations or where there is a significant public interest, and (2) criminal enforcement rights in certain instances. The SCRA also provides for a private right of action generally allowing for all legal remedies available in any civil lawsuit and the right to seek attorney's fees.

Provisions of the SCRA that commonly apply to mobilizing reserve component service members:

**Default judgment protection.** SM has the right (up to 90 days after REFRAD) to reopen a default judgment taken against him or her during AD or within 60 days after AD.

**Stays of civil and administrative proceedings.** An SM may ask for a postponement of any court action (lawsuit) or administrative proceeding for not less than 90 days if he/she is on AD or within 90 days after REFRAD. To exercise the right, the SM must send a 'letter or other communication' to the court/hearing officer asserting his/her military service materially affects his/her ability to appear. The SM must state when he/she would be available and must include a letter from his/her commander that confirms the SM's current military duty prevents making an appearance and that leave is not authorized.

**Extensions on time limits for filing lawsuits (i.e., tolling of given statutes of limitations).** An SM may obtain extensions, without showing material effect, for everything except federal revenue matters.

**Eviction proceeding stays.** The SCRA does not prohibit the eviction of an SM, but requires the landlord to obtain a court order (for rentals not exceeding \$2,975.54 monthly in January 2011, adjusted annually thereafter for inflation). The SM or SM's family member may seek a stay up to 90 days upon a showing of material effect.

**Mortgage protections.** If a SM breaks his/her mortgage agreement on real property purchased before entry on AD, the SCRA protects the SM by allowing foreclosure only by court order or waiver. This protection lasts during the time on AD plus 9 months. (The additional 9 months of protections will sunset on 31 Dec 12.) Alternatively, upon showing of material effect, a SM may seek a stay of foreclosure and/or equitable adjustment.

**Residential lease termination rights.** An SM may terminate real property leases (residential, professional, business, agricultural, etc.) if the given lease was executed before entry on AD, or if executed on AD, the SM then receives PCS orders or orders to deploy for 90 days or more. The SM must provide written notice of termination and a copy of his/her orders.

**Automobile lease termination rights.** An SM may terminate an automobile lease if the given lease was executed before entry on AD and he/she then receives orders to AD for 180 days or more, or if executed on AD, the SM then receives PCS orders from inside to outside CONUS or from Alaska or Hawaii to anywhere else. He/she may also end the lease executed on AD if he/she subsequently receives orders to deploy for 180 days or more. The SM must return the vehicle within 15 days of giving notice.

**Cellular telephone contract termination rights.** An SM may terminate or suspend a cellular telephone contract if the SM receives orders to relocate for 90 days or more to a place where there is no cell phone coverage under the contract. The SM must give written or electronic notice of termination with a copy of the SM's orders. Family plans may be cancelled if the family moves with the SM.



**Six Percent Interest Cap on Consumer Debt During Active Duty.** An SM may reduce interest on pre-AD debts to 6 percent. For mortgages, the protection lasts one year beyond REFRAD. The protection lasts only during AD itself for all other obligations (including, since 15 Aug 08, student loans). The interest above 6% is forgiven, not deferred, and periodic payments must be lowered to account for such forgiven interest. To exercise the right, the SM must provide written notice and a copy of his orders NLT 180 days after REFRAD.

## FTC ACT

*Federal Trade Commission Act* (15 U.S.C. §§ 41-58)

15 U.S.C. § 45(a)(1): “Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful.”

Under this Act, the FTC is empowered, among other things, to (a) prevent unfair methods of competition, and unfair or deceptive acts or practices in or affecting commerce; (b) seek monetary redress and other relief for conduct injurious to consumers; (c) prescribe trade regulation rules defining with specificity acts or practices that are unfair or deceptive, and establishing requirements designed to prevent such acts or practices; (d) conduct investigations relating to the organization, business, practices, and management of entities engaged in commerce; and (e) make reports and legislative recommendations to Congress.

The Department of Justice Civil Division Consumer Protection Branch is responsible for civil and criminal actions brought under the FTC Act. These cases generally fall into three categories: 1) enforcement actions for civil penalties and injunctive relief based on violations of final orders issued by the FTC; 2) enforcement actions for civil penalties and injunctive relief based on violations of FTC trade regulation rules; and 3) prosecutions for criminal violations of the FTC Act, and for violations of district court orders obtained under the FTC Act.

## FDCPA

Fair Debt Collection Practices Act (15 U.S.C. § 1692-1692p).

The Fair Debt Collection Practices Act (“FDCPA”) prohibits third-party debt collectors from employing deceptive or abusive conduct in the collection of consumer debts incurred for personal, family, or household purposes. (The term “debt collector” generally does not cover creditors collecting their own debts). Such collectors may not, for example, contact debtors at odd hours, subject them to repeated telephone calls, threaten legal action that is not actually contemplated, or reveal to other persons the existence of debts. The Department of Justice Civil Division Consumer Protection Branch enforces violations of the FDCPA, which are treated as unfair or deceptive acts or practices in violation of the FTC Act.

Among the Act’s provisions:

A debt collector may not contact a consumer at inconvenient times or places, such as before 8 in the morning or after 9 at night, unless the consumer agrees to it. And collectors may not contact consumers at work if they're told (orally or in writing) that the consumer is not allowed to get calls there.

Once a collector receives written notice, they may not contact the consumer again except to tell the consumer there will be no further contact or to let the consumer know that they or the creditor intend to take a specific action, like filing a lawsuit.

If an attorney represents a consumer with respect to a debt, the debt collector must contact the attorney, rather than the consumer. If the consumer does not have an attorney, a collector may contact other people – but only to find out the consumer's address, home phone number, and place of employment. Collectors usually are prohibited from contacting third parties more than once. Other than to obtain location information, a debt collector generally is not permitted to discuss a consumer's debt with anyone other than the consumer, their spouse, or their attorney.

Debt collectors may not:

- use threats of violence or harm;
- publish a list of names of people who refuse to pay their debts;
- use obscene or profane language;
- repeatedly use the phone to annoy someone;
- falsely claim that they are attorneys or government representatives;
- falsely claim that a consumer has committed a crime;
- falsely represent that they operate or work for a credit reporting company;
- misrepresent the amount owed;
- indicate that papers they send are legal forms if they aren't; or
- indicate that papers they send are not legal forms if they are.
- threaten a consumer with arrest if he or she doesn't pay the debt;
- threaten to seize, garnish, attach, or sell a consumer's property or wages unless they are permitted by law to take the action and intend to do so;
- threaten legal action against the consumer, if doing so would be illegal or if they do not intend to take the action.
- give false credit information about the consumer to anyone, including a credit reporting company;
- send anything that looks like an official document from a court or government agency if it isn't;
- use a false company name;
- try to collect any interest, fee, or other charge on top of the amount owed unless the contract that created the debt – or state law – allows the charge.

## Telemarketing

*Telemarketing and Consumer Fraud and Abuse Prevention Act* (15 U.S.C. §§ 6101 *et seq.*)

The Telemarketing and Consumer Fraud and Abuse Prevention Act directed the FTC to prescribe rules to prohibit abusive telemarketing practices. Violations of the ensuing Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, are treated as violations of the FTC Act.

The Consumer Protection Branch enforces the TSR, which contains an extensive array of consumer protection provisions, including the following:

The TSR established the National Do Not Call Registry, which telemarketers are required to search every 31 days and avoid calling any phone numbers that are on the registry. Calls from or on behalf of political organizations, charities and telephone surveyors are still permitted, as are calls from organizations with which a consumer has an established business relationship or to which a consumer has made an inquiry or submitted an application. A telemarketer who disregards the National Do Not Call Registry could be fined up to \$16,000 for each call.

Calling times are restricted to the hours between 8 a.m. and 9 p.m.

Telemarketers must promptly disclose the identity of the seller or charitable organization and that the call is a sales call or a charitable solicitation.

Telemarketers must disclose all material information about the goods or services they are offering and the terms of the sale and are prohibited from lying about any terms of their offer.

Before submitting a consumer’s billing information for payment, telemarketers must get their express informed consent to be charged — and to charge to a specific account.

Telemarketers must connect their call to a sales representative within two seconds of the consumer’s greeting and may not hang up on an unanswered call before 15 seconds or four rings. When the telemarketer doesn’t have a representative standing by, a recorded message must play to let the consumer know who is calling and the number they are calling from.

Telemarketers must transmit their telephone number and if possible, their name, to the consumer’s caller ID service.

Most businesses need written permission before they can call with prerecorded telemarketing messages, or robocalls. Businesses using robocalls have to disclose at the beginning of the message how consumers can stop future calls, and must provide an automated opt-out that can be activated by voice or keypress.

## Credit

The *Truth in Lending Act* (15 U.S.C. §§ 1601-1667f) requires all creditors who deal with consumers to make certain written disclosures concerning finance charges and related aspects of credit transactions (including disclosing an annual percentage rate). The Act also establishes a three-day right of rescission in certain transactions involving the establishment of a security interest in the consumer's residence (with certain exclusions, such as interests taken in connection with the purchase or initial construction of a dwelling) and establishes certain requirements for advertisers of credit terms.

The *Fair Credit Billing Act* (15 U.S.C. §§ 1666-1666j), amends the Truth in Lending Act to require prompt written acknowledgment of consumer billing complaints and investigation of billing errors by creditors. The amendment prohibits creditors from taking actions that adversely affect the consumer's credit standing until an investigation is completed, and affords other protection during disputes. The amendment also requires that creditors promptly post payments to the consumer's account, and either refund overpayments or credit them to the consumer's account.

The *Equal Credit Opportunity Act* (15 USC §§ 1691-1691f) requires that financial institutions and other firms engaged in the extension of credit make that credit equally available to all credit-worthy customers, and prohibits discrimination on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or good faith exercise of any rights under pertinent consumer credit statutes. The Act also requires creditors to provide applicants, upon request, with the reasons underlying decisions to deny credit. A violation of any requirement of the ECOA is treated as a violation of the FTC Act, and enforced in the same manner as if the violation had been a violation of an FTC trade regulation rule.

The *Fair Credit Reporting Act* (15 U.S.C. §§ 1681-1681x) requires consumer reporting agencies to adopt certain procedures relating to consumer credit, personnel, insurance, and other information to ensure the confidentiality, accuracy, reliability and proper verification of the information. Information in a consumer report cannot be provided to anyone who does not have a purpose specified in the Act, and companies that provide information to consumer reporting agencies also have specific legal obligations, including the duty to investigate disputed information. In addition, users of the information for credit, insurance, or employment purposes must notify the consumer when an adverse action is taken on the basis of such reports and must identify the company that provided the report, so that the accuracy and completeness of the report may be verified or contested by the consumer. Subsequent amendments to the Act give consumers the right to one free credit report a year from the credit reporting agencies, the ability to purchase for a reasonable fee a credit score along with information about how the credit score is calculated, and the ability place fraud alerts in their credit files. A violation of any requirement or prohibition imposed under the FCRA is treated as a violation of the FTC Act.

## Credit Repair

### *Credit Repair Organizations Act* (15 U.S.C. § 1679 – 1679j)

The Credit Repair Organizations Act (“CROA”) prohibits untrue or misleading representations and requires certain affirmative disclosures in the offering or sale of "credit repair" services. The Act bars "credit repair" companies from demanding advance payment, requires that "credit repair" contracts be in writing, and gives consumers certain contract cancellation rights.

The statute is aimed at schemes that promise to “repair” the credit of consumers by employing the verification provisions of the Fair Credit Reporting Act (FCRA) and that misrepresent the services a credit repair organization can provide. Common misrepresentations include claims that such organizations can remove negative items from credit reports due to alleged difficulties in the verification process. However, verification is usually automated, and most debts may remain on a consumer's report for seven years, and bankruptcies for ten years. Thus, claims that most consumers can get such items removed from credit reports frequently violate CROA.

CROA also prohibits “file segregation” schemes, which are advertised as a way of creating a new credit identity. File segregation operators advise the consumer to apply to the IRS for an Employer Identification Number (“EIN”), and to use the EIN in lieu of their Social Security Number when applying for credit in order to create a completely new credit file in which the old debts will not appear. The scheme essentially involves an attempt to hide one’s identity from creditors and both the person selling such a scheme and consumers who follow the scheme are violating the law. CROA bars any person from making or counseling any consumer to make any untrue or misleading statement whose intended effect is to alter the consumer’s identification to hide accurate credit information.

A credit repair offer is likely a scam if those offering the services:

- insist on payment before they do any work on the consumer’s behalf;
- tell the consumer not to contact the credit reporting companies directly;
- tell the consumer to dispute accurate information in their credit report;
- tell the consumer to give false information on an applications for credit or a loan; or
- don’t explain the consumer’s legal rights when they tout their services.

## **STATE LAW (TABLES OF STATE STATUTES)**

- Lemon Laws and Unfair & Deceptive Acts and Practices Statutes
- Lemon Buyback Laws and Salvage Vehicle Laws
- Telemarketing and Debt Collection Statutes

### **Lemon Laws and Unfair & Deceptive Acts and Practices Statutes.**

<b><i>State Consumer Protection Laws Quick Reference I</i></b>		
<b>STATE</b>	<b>LEMON LAW</b>	<b>UDAP STATUTE</b>
Alabama	Ala. Code §§ 8-20A-1 to 8-20A-6	Ala. Code § 8-19-1 to 8-19-15
Alaska	Alaska Stat. §§ 45.45.300 to 45.45.360	Alaska Stat. § 45.50.471 to 45.50.561
Arizona	Ariz. Rev. Stat. Ann. § 44-1261 to 44-1267	Ariz. Rev. Stat. Ann. § 44-1521 to 44-1534
Arkansas	Ark. Code Ann. §§ 4-90-401 to 4-90-417	Ark. Code Ann. § 4-88-101 to 4-88-207
California	Cal. Civ. Code §§ 1793.1 to 1795.7, 1793.22 to 1793.26	Cal. Civ. Code § 1750 to 1785 Cal. Bus. & Prof. Code §§ 17200 to 17594
Colorado	Colo. Rev. Stat. §§ 42-10-101 to §§ 42-10-107, 12-6-120(1)(a), 12-6-122(2)	Colo. Rev. Stat. § 6-1-101 to 6-1-115
Connecticut	Conn. Gen. Stat. Ann. §§ 42-179 to 42-184	Conn. Gen. Stat. § 42-110a to 42-110q
Delaware	Del. Code Ann. tit. 6 §§ 5001 to 5009	Del. Code Ann. tit. 6 § 2511 to 2527, 2580 to 2584, & 2531 to 2536
District of Columbia	D.C. Code Ann. §§ 50-501 to 50-510	D.C. Code Ann. § 28-3901 to §§ 28-3913
Florida	Fla. Stat. Ann. § 681.10 to 681.118	Fla. Stat. Ann. § 501.201 to 501.213
Georgia	Ga. Code Ann. §§ 10-1-780 to 10-1-794	Ga. Code Ann. § 10-1-370 to 10-1-375, 10-1-390 to 10-1-407

Guam		5 Guam Code Ann. §§ 32101 to 32603
Hawaii	Haw. Rev. Stat. § 481I-1 to 481I-4	Haw. Rev. Stat. § 480-1 to 480-24 & 481A-1 to 481A-5

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***State Consumer Protection Laws Quick Reference I***

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STATE	LEMON LAW	UDAP STATUTE
Idaho	Idaho Code §§ 48-901 to 48-913	Idaho Code § 48-601 to 48-619
Illinois	815 Ill. Comp. Stat. §§ 380/1 to 380/8	815 Ill. Comp. Stat. 505/1 to 505/12 & 510/1 to 510/7
Indiana	Ind. Code §§ 24-5-13-1 to 24-5-13-24	Ind. Code Ann. § 24-5-0.5-1 to 24-5-0.5-12
Iowa	Iowa Code Ann. §§ 322G.1 to 322G.15	Iowa Code Ann. § 714.16 to 714.16A
Kansas	Kan. Code Ann. §§ 50-645 to 50-646	Kan. Stat. Ann. § 50-623 to 50-640 & 50-675a to 50-679a
Kentucky	Ky. Rev. Stat. Ann. §§ 367.840 to 367.845; 367.860 to 387.870	Ky. Rev. Stat. § 367.110 to 367.990
Louisiana	La. Rev. Stat. Ann. §§ 51:1941 to 51:1948	La. Rev. Stat. Ann. § 51:1401 to 51:1420
Maine	Me. Rev. Stat. Ann. tit. 10 §§ 1161 to 1169	Me. Rev. Stat. Ann. tit. 5 § 205A to 214 & tit. 10 § 1211 to 1216
Maryland	Md. Code Ann. Com. Law §§ 14-1501 to 14-1504	Md. Code Ann. Com. Law §§ 13-101 to 13-501 & 14-101 to 14-3202
Massachusetts	Mass. Gen. Laws Ann. ch. 90 § 7N½	Mass. Gen. Laws Ann. ch. 93A §§ 1-11
Michigan	Mich. Comp. Laws §§ 257.1401 to 257.1410	Mich. Comp. Laws § 445.901 to 445.922

Minnesota	Minn. Stat. Ann. § 325F.665	Minn. Stat. Ann. §§ 8.31, 325D.43 to 325D.48, 325F.67, & 325F.68 to 325F.70 and others
Mississippi	Miss. Code Ann. §§ 63-17-151 to 63-17-165	Miss. Code Ann. § 75-24-1 to 75-24-27
Missouri	Mo. Stat. Ann. §§ 407.560 to	Mo. Rev. Stat. § 407.010 to 407.307

<i>State Consumer Protection Laws Quick Reference I</i>		
STATE	LEMON LAW	UDAP STATUTE
	407.579	
Montana	Mont. Code Ann. §§ 61-4-501 to 61-4-533	Mont. Code Ann. § 30-14-101 to 30-14-142
Nebraska	Neb. Rev. Stat. §§ 60-2701 to 60-2709	Neb. Rev. Stat. § 59-1601 to 59-1623 & 87-301 to 87-306
Nevada	Nev. Rev. Stat. § 597.600 to 597.680	Nev. Rev. Stat. §§ 41.600 & 598.0903 to 598.0999
New Hampshire	N.H. Rev. Stat. Ann. §§ 357-D:1 to 357-D:12	N.H. Rev. Stat. Ann. § 358-A:1 to 358-A:13
New Jersey	N.J. Stat. Ann. §§ 56:12-29 to 56:12-49	N.J. Stat. Ann. § 56:8-1 to 56:8-91
New Mexico	N.M. Stat. Ann. §§ 57-16A-1 to 57-16A-9, 56-16-4, 56-16-13	N.M. Stat. Ann. § 57-12-1 to 57-12-22
New York	N.Y. Gen. Bus. Law § 198-a; N.Y. Veh. & Traf. Law § 417-a	N.Y. Exec. Law § 63(12); N.Y. Gen. Bus. Law §§ 349 & 350
North Carolina	N.C. Gen. Stat. §§ 20-351 to 20-351.10	N.C. Gen. Stat. § 75-1.1 to 75-35
North Dakota	N.D. Cent. Code §§ 51-07-16 to 51-07-22	N.D. Cent. Code §§ 51-15-01 to 51-15-11
Ohio	Ohio Rev. Code Ann. §§ 1345.71 to 1345.78	Ohio Rev. Code Ann. §§ 1345.01 to 1345.13 & 4165.01 to 4165.04



Oklahoma	Okla. Stat. Ann. tit. 15, § 901	Okla. Stat. Ann. tit. 15 § 751 to 763 & tit. 78 §§ 51 to 55
Oregon	Or. Rev. Stat. §§ 646.315 to 646.375	Or. Rev. Stat. § 646.605 to 646.656
Pennsylvania	73 Pa. Stat. Ann. § 1951 to 1963	Pa. Stat. Ann. Tit. 73 §§ 201-1 to 201-9.3

<b><i>State Consumer Protection Laws Quick Reference I</i></b>		
<b>STATE</b>	<b>LEMON LAW</b>	<b>UDAP STATUTE</b>
Puerto Rico		P.R. Laws Ann. tit.3 §§ 341 to 341w & tit. 10 §§ 257 to 273
Rhode Island	R.I. Gen. Laws §§ 31-5.2-1 to 31-5.2-12	R.I. Gen. Laws § 6-13.1-1 to 6-13.1-27
South Carolina	S.C. Code Ann. §§ 56-28-10 to 56-28-110, 56-15-40(1), 56-15-110	S.C. Code Ann. § 39-5-10 to 39-5-160
South Dakota	S.D. Codified Laws Ann §§ 32-6D-1 to 32-6D-11	S.D. Codified Laws Ann. § 37-24-1 to 37-24-35
Tennessee	Tenn. Code Ann. §§ 55-24-201 to 55-24-212	Tenn. Code Ann. § 47-18-101 to 47-18-125
Texas	Tex. Occ. Code Ann. §§ 2301.601 to 2301.613	Tex. Bus. & Com. Code Ann. §§ 17.41 to 17.63
Utah	Utah Code Ann. §§ 13-20-1 to 13-20-7, 41-3-406 to 41-3-414	Utah Code Ann. §§ 13-2-1 to 13-2-8, 13-5-1 to 13-5-18, & 13-11-1 to 13-11-23, & 13.11a-1 to 13.11a-5
Vermont	Vt. Stat. Ann. tit. 9 §§ 4170 to 4181	Vt. Stat. Ann. tit. 9 § 2451 to 2480g
Virginia	Va. Code §§ 59.1-207.9 to 207.16	Va. Code Ann. § 59.1-196 to 59.1-207
Virgin Islands		V.I. Code Ann. Tit. 12A §§ 101-123 & 180-185

Washington	Wash. Rev. Code §§ 19.118.005 to 19.118.904	Wash. Rev. Code Ann. §§ 19.86.010 to 19.86.920
West Virginia	W. Va. Code §§ 46A-6A-1 to 46-6A-9	W.Va. Code §§ 46A-6-101 to 46A-6-110
Wisconsin	Wis. Stat. Ann. § 218.0171. 218.0163(2)	Wis. Stat. Ann. §§ 100.18 & 100.20 to 100.264
Wyoming	Wyo. Stat. Ann. § 40-17-101	Wyo Stat. Ann. §§ 40-12-101 to 40-12-114

#### Lemon Buyback Laws and Salvage Vehicle Laws.

<b><i>State Consumer Protection Laws Quick Reference II</i></b>		
<b>STATE</b>	<b>RESALE OF LEMON STATUTE (LEMON LAW BUYBACK / LEMON LAUNDERING) SALVAGE VEHICLE STATUTE)</b>	<b>UDAP STATUTE</b>
Alabama	Ala. Code §§ 8-20A-3, 8-20A-4, 8-20A-5	Ala. Code § 32-8-87
Alaska	Alaska Stat. § 45.45.335	Alaska Stat. § 28-10-211
Arizona	Ariz. Rev. Stat. § 44-1266	Ariz. Rev. Stat. Ann. §§ 28-2091, 28-2095
Arkansas	Ark. Code Ann. § 4-90-412	Ark. Code Ann. § 27-14-2301 to 2307
California	Cal. Civ. Code §§ 1793.23, .24, .26, 11713.12 12	Cal. Veh. Code §§ 544, 5505, 6050, 11515-11515.2
Colorado	Colo. Rev. Stat. § 6-1-708(1)(b), 6-	Col. Rev. Stat. §§ 42-6-102, 42-6-136, 42-2 206
Connecticut	Conn. Gen. Stat. Ann. § 42-179(g), 42-179(i)	Conn. Gen. Stat. § 14-16c, 14-103a
Delaware	NA	Del. Code Ann. tit. 21 §§ 2512, 6716

District of Columbia	D.C. Code § 50-502(g)	D.C. Code Ann. § 50-505
Florida	Fla. Stat. Ann. §§ 681.111; 681.112; 681.114(2), 319.14 (West)	Fla. Stat. Ann. §§ 319.14, 319.30 (West)
Georgia	Ga. Code Ann. §§ 10-1-790	Ga. Code Ann. §§ 40-3-2, 40-3-36, 40-3-37
Hawaii	Haw. Rev. Stat. §§ 481I-3(I) , 481I-3(k), 481J	Haw. Rev. Stat. § 286-48
Idaho	Idaho Code § 48-905	Idaho Code § 49-524 & 525

<b><i>State Consumer Protection Laws Quick Reference II</i></b>		
<b>STATE</b>	<b>RESALE OF LEMON STATUTE  (LEMON LAW BUYBACK / LEMON LAUNDERING) SALVAGE VEHICLE STATUTE)</b>	<b>UDAP STATUTE</b>
Illinois	625 Ill. Comp. Stat. §§ 5/5-104.2, 5/5-104.3 (West)	625 Ill. Comp. Stat. §§ 5/3-117.1, -118.1, 5/3-301 <i>et. seq.</i>
Indiana	Ind. Code Ann. §§ 24-5-13.5-1 to -24-5-13.5-14	Ind. Code Ann. §§ 9-22-3-3 to 9-22-3-5, 9-22-3-30
Iowa	Iowa Code Ann. § 322G.11 & .12	Iowa Code Ann. §§ 321.52, 321-69
Kansas	Kan. Stat. Ann. § 50-645, 50-659	Kan. Stat. Ann. §§ 8-135; 8-197 to 199
Kentucky	No specific lemon resale statute	Ky. Rev. Stat. § 186A.520, 186A.530
Louisiana	La. Rev. Stat. Ann. § 51:1945.1 & 1946	La. Rev. Stat. Ann. §§ 32:702, 32:706, 32:707, 32.707.3
Maine	Me. Rev. Stat. Ann. tit. 10 §§ 1147, 1163(7) & (8), 1167, 1168, 1174(E), 1475(4), tit. 29-A, § 670	Me. Rev. Stat. Ann. tit. 29-A, §§ 602, 654, 667
Maryland	Md. Code Ann. Com. Law. § 14-	Md. Code Ann. Com. Law §§ 11-

	1502	152, 13-506, 13-507
Massachusetts	Mass. Gen. Laws ch. 90 § 7N 1/2(5)	Mass. Gen. Laws ch. 90D, §§ 1, 20B - 20F
Michigan	Mich. Comp. Laws §§ 257.4c, 257.235(5)	Mich. Comp. Laws Ann. § 257.217c
Minnesota	Minn. Stat. Ann. §§ 325F.655(13); 325F.665(5); 325F.665(9)	Minn. Stat. Ann. §§ 168A.01, 168A.151, 325F.664 to 325F.6644
Mississippi	No specific lemon resale statute	Miss. Code Ann. §§ 63-21-33, 63-21-39
Missouri	No specific lemon resale statute	Mo. Rev. Stat. §§ 301.010, 301.020, 301.190, 301.227, 301.573

<b><i>State Consumer Protection Laws Quick Reference II</i></b>		
<b>STATE</b>	<b>RESALE OF LEMON STATUTE  (LEMON LAW BUYBACK / LEMON LAUNDERING) SALVAGE VEHICLE STATUTE)</b>	<b>UDAP STATUTE</b>
Montana	Mont. Code Ann. § 61-4-525	Mont. Code Ann. §§ 61-3-210 to 212
Nebraska	Neb. Rev. Stat. §§ 60-129, 6-130, 60-174	Neb. Rev. Stat. § 60-129, 60-130, 60-171 to 177
Nevada	Nev. Rev. Stat. §§ 597.620, 597.682 to .688	Nev. Rev. Stat. §§ 482.098, 482.245, 487.160, 487.710 to .890
New Hampshire	N.H. Rev. Stat. Ann. § 357-D:12	N.H. Rev. Stat. Ann. § 261.22
New Jersey	N.J. Stat. Ann. §§ 56:8-2, 56:12-39, 39:10-9.3	N.J. Stat. Ann. § 39-10-32 N.J. Admin Code 13:21-22.7
New Mexico	N.M. Stat. Ann. § 57-16A-7	N.M. Stat. Ann. § 66-1-4.12, 66-1-4.16, 66-3-4, 66-3-10.1
New York	N.Y. Veh. & Traf. Law § 417-a(2), 417-2(4)	N.Y. Veh. & Traf. Law §§ 429, 430
North Carolina	N.C. Gen. Stat. § 20-351.3(d)	N.C. Gen. Stat. §§ 20-4.01, 20-71.3,

		20-71.4, 20-109.1
North Dakota	N.D. Cent. Code § 51-07-22	N.D. Gen. Stat. § 39-05-20.1, 39-05-20.2
Ohio	Ohio Rev. Code Ann. § 1345.76(A), (B)(C)	Ohio Rev. Code Ann. §§ 4505.11 & 4505.181
Oklahoma	No specific lemon resale statute	Okla. Stat. Ann. tit. 47 § 591.8, 1111
Oregon	Or. Rev. Stat. § 646A.325, 646A.405	Or. Rev. Stat. §§ 803.015, 801.405, 801.012, 819.014 to 819.016
Pennsylvania	Pa. Stat. Ann. tit. 73 §§ 1960(a) and (b), 1961, 1962	Pa. Stat. Ann. tit. 75 §§ 102, 1106, 1161, 1165

<b><i>State Consumer Protection Laws Quick Reference II</i></b>		
<b>STATE</b>	<b>RESALE OF LEMON STATUTE (LEMON LAW BUYBACK / LEMON LAUNDERING) SALVAGE VEHICLE STATUTE)</b>	<b>UDAP STATUTE</b>
Rhode Island	R.I. Gen. Laws § 31-5.2-9; -10, & -11	R.I. Gen. Laws § 31-46-4
South Carolina	S.C. Code Ann. § 56-28-100, 56-28-110	S.C. Code Ann. § 56-19-480 (Law. Co-op)
South Dakota	S.D. Codified Laws Ann § 32-6D-9, 32-6D-10	S.D. Codified Laws Ann. §§ 32-3-12, 32-3-51.5, 32-3-51.6, 32-3-53, 32-3-53.2 (as amended by 2005 S.D. Sess. Laws 155)
Tennessee	No specific lemon resale statute	Tenn. Code Ann. §§ 55-3-120, 55-3-201, 55-3-212
Texas	Tex. Occ. Code Ann. §2301.610	Tex. Transp. Code Ann. §§ 501.091 to 501.095, 501.097, 501.098, 501.100 to 501.103
Utah	Utah Code Ann. §§ 41-3-406 to -414, 41-1a-522	Utah Code Ann. §§ 41-1a-1001 to 1008
Vermont	Vt. Stat. Ann. tit. 9 §§ 4179, 4181	Vt. Stat. Ann. tit. 23 §§ 2001, 2091, 2093

Virginia	Va. Code §§ 59.1-207.15, 59.1-207.16:1, 18.2-11	Va. Code §§ 46.2-1600 to 1608
Washington	Wash. Rev. Code § 19.118.061	Wash. Rev. Code Ann. § 42.04.524, 46.12.560, 46.55.230
West Virginia	W. Va. Code § 46A-6A-7 & -9	W.Va. Code Ann. § 17A-4-10
Wisconsin	Wis. Stat. Ann. § 218.015(2)(d), 218.0170(2)(d), 342.10, 342.15.1	Wis. Stat. Ann. §§ 342.01, 342.07, 342.10, 342.065 (see also Wis. Admin. Code Trans. 139.04)
Wyoming	No specific lemon law resale statute	Wyo Stat. §§ 31-2-103 to 109

#### Telemarketing and Debt Collection Statutes.

<i>State Consumer Protection Laws Quick Reference III</i>		
STATE	TELEMARKETING	DEBT COLLECTION STATUTES
Alabama	Ala. Code §§ 8-19A-1 to 8-19A-24 (Telemarketing); §§ 8-19C-1 to 8-19C-12 (Do-Not Call List)	Ala. Code § 40-12-80
Alaska	Alaska Stat. §§ 45.63.010 to 45.63.100, 45.50.475	Alaska Stat. §§ 8.24.041 to 8.24.380, 45.50.471 to 45.50.561
Arizona	Ariz. Rev. Stat. Ann. §§ 44-1271 to 44-1282	Ariz. Rev. Stat. Ann. §§ 32-1001 to 32-1057
Arkansas	Ark. Stat. Ann. §§ 4-99-10 to 4-99-408	Ark. Stat. Ann. §§ 17-24-101 to 17-24-512
California	Cal. Bus. & Prof. Code §§ 17511 to 17513, 17591 to 17595	Cal. Civ. Code §§ 1788 to 1788.33, 1812.700 to 1812.702, Cal Family
Colorado	Colo. Rev. Stat. §§ 6-1-301 to 6-1-304, 6-1-901 to 6-1-908, 4 Colo. Code Regs § 723-22	Colo. Rev. Stat. §§ 5-1-101 to 5-12-1812.700 to 1812.702, Cal Family Code 5610-5616
Connecticut	Conn. Gen. Stat. §§ 42-284 to 42-289	Conn. Gen. Stat. §§ 36a-645 to 647, 36a-800 to 36a-810 ,
Delaware	Del Code Ann. tit. 6 § 2501A-2509A	Del. Code Ann. tit. 30 § 2301(a)(12)

District of Columbia	D.C. Code § 22-3226.01 to 22-3226.15	D.C. Code Ann. §§ 22-3401 to 22-3403, 28-3814 to 28-3816, 28-3901 to 28-3909
Florida	Fla. Stat. Ann. §§ 501.059, 501.601 to 501.626	Fla. Stat. Ann. §§ 559.55 to 559.785
Georgia	Ga. Code Ann. §§ 10-5B-1 to 105B-8	Ga. Code Ann. §§ 7-3-1 to 7-3-29
Hawaii	Haw. Rev. Stat. §§ 481P-1 to 481P-8	Haw. Rev. Stat. §§ 443B-1 to 443B-21, 480D-1 to 480D-5
Idaho	Idaho Code §§ 48-1001 to 48-1108	Idaho Code §§ 26-2222 to 26-2251

<b><i>State Consumer Protection Laws Quick Reference III</i></b>		
<b>STATE</b>	<b>TELEMARKETING</b>	<b>DEBT COLLECTION STATUTES</b>
Illinois	815 Ill. Comp. Stat. Ann. §§ 413/1 to 413/27, 402/1 to 402/99, (Do-Not Call List), 505/2P.1	225 Ill. Comp. Stat. 425/1 to 425/9.7
Indiana	Ind. Code Ann. §§ 24-5-12-1 to 24-5-12-25, 24-4.7-1-1 to 24.4.7-5-6	Ind. Code Ann. §§ 25-11-1-1 to 25-11-13, 24-4.5-5-107
Iowa	Iowa Code §714.8(15)	Iowa Code Ann. §§ 537.7101 to 537.7103
Kansas	Kan. Stat. Ann. §§ 50-670 to 50.679a	Kan. Stat. Ann. § 16a-5-107
Kentucky	Ky. Rev. Stat. §§ 367.461 to 367.46999	None, <i>but see</i> Ky. Rev. Stat. Ann. §24A-240 (restrictions on small claims court suits by creditors and debt collectors)
Louisiana	La. Rev. Stat. Ann. §§ 45:821 to 45.833, 45:844.11 to 45:844.15	La. Rev. Stat. Ann. §§ 9:3552 and 9:3562, <i>see also</i> 9:3534
Maine	Me. Rev. Stat. Ann. tit. 10 §§ 1498, 1499, 1499A	Me. Rev. Stat. Ann. tit. 32 §§11,001 to 11054, 9A §§ 5-107, 5-116, 5-117, 5-201, 19A § 2109
Maryland	Md. Comm. Law Code § 14-2201 to 14-2205, 14-3201 to 14-3202, 8-204 to 8-205	Md. Ann. Code Bus. Reg. §§ 7-101 to 7-502, Md. Comm. Law Code §§14-201 to 14-204

Massachusetts	Mass. Gen. Laws Ann. ch. 159, 19E	Mass. Gen. Laws Ann. ch. 93 §§ 24 to 28, 49
Michigan	Mich. Comp. Laws §§ 445.111 to 445.111e, 445.113, 445.116	Mich. Comp. Laws Ann. §§339.901 to 339.920 & 445.251 to 445.258
Minnesota	Minn. Stat. 325E.26 to 325E.31, 325E.395, 325E.311 to 325E.316 (Telephone Solicitation, expires on December 31, 2012), 325G.12 to 325G.14	Minn. Stat. Ann. §§ 332.31 to 332.45 and Minn. Stat. §§ 325F.91 – 325F.92 (restricting debt collection activities of rent-to-own companies)
Mississippi	Miss. Code Ann. §§ 77-3-601 to 77-3-619, (77-3-701 to 77-3-737 was scheduled for sunset on July 1, 2006)	None, <i>but see</i> Miss. Code Ann. §97-9-1 (criminal offense to simulate legal process to obtain collection of a debt)
Missouri	Mo. Rev. Stat. §§ 407.1070 to 407.1090 (Telemarketing), §§ 407.1095 to 407.1110 (Do-Not Call List)	Mo. Rev. Stat. §§ 425.300 and 287.140(13)

<b><i>State Consumer Protection Laws Quick Reference III</i></b>		
<b>STATE</b>	<b>TELEMARKETING</b>	<b>DEBT COLLECTION STATUTES</b>
Montana	Mont. Code Ann. §§ 30-14-1401 to 30-14-1406, § 30-14-501 to 30-14-508	None, <i>but see</i> Mont. Code Ann. §§3-1-602, 30-19-102 to 30-19-116 (rent-to-own regulations), 31-1-704 (payday lending regulations)
Nebraska	Neb. Rev. Stat. §§ 86-212 to 86-235, 86-236 to 86-257	Neb. Rev. Stat. §§ 45-601 to 45-623, 45-1043 to 45-1058
Nevada	Nev. Rev. Stat. §§ 597.814, 598.0918, 228.500 to 228.640, 599B005-599B.300	Nev. Rev. Stat. §§ 649.005 to 649.435
New Hampshire	N.H. Rev. Stat. Ann. §§ 359-E:1 to 359-E:11	N.H. Rev. Stat. Ann. §§ 358-C:1 to 358-C:4
New Jersey	N.J. Stat. Ann. §§ 56:8.119 to 56:8-135, 48:17-25; N.J. Admin. Code §13:45A-1.1	N.J. Stat. Ann. §§ 45:18-1 to 45:18-6.1
New Mexico	N.M. Stat. Ann. §§ 57-12-22 to 57-12-24	N.M. Stat. Ann. §§ 61-18A-1 to 61-18A-33
New York	N.Y. Gen. Bus. Law § 399-p, 399- pp, 399-z; N.Y. Pers. Prop. Law §§440 to 448, N.Y. Pub. Serv. Law §92-d	N.Y. Gen. Bus. Law §§ 600 to 604- b
North Carolina	N.C. Gen. Stat. §§ 66-260 to 66-266,	N.C. Gen. Stat. §§ 58-70-15, 58-70-90



	75-100 to 75-105	to 58-70-155, 75-50 to 75-56 (Prohibited Acts by Debt Collectors)
North Dakota	N.D. Cent. Code §§ 51-18-01 to 51-18-22	N.D. Cent. Code §§ 13-05-01 to 13-05-10
Ohio	Ohio Rev. Code Ann. 4719.01 to 4719.99	None, <i>but see</i> ORC Ann. § 1319.12
Oklahoma	Okla. Stat. Ann. Tit. 15 §§ 775A.1 to 775A.5	Okla. Stat. tit. 14A, § 5-107, <i>see also</i> tit. 12, § 1751 (prohibiting collection agency from bringing action in small claims court)
Oregon	Or. Rev. Stat. §§ 646.551 to 646.578	Or. Rev. Stat. §§ 646.639 to 646.643, 697.005 to 697.105
Pennsylvania	Pa. Stat. §§ 2241 to 2249	Pa. Cons. Stat. Ann. 18 § 7311 & 73 § 2270.1 to 2270.6

<b><i>State Consumer Protection Laws Quick Reference III</i></b>		
<b>STATE</b>	<b>TELEMARKETING</b>	<b>DEBT COLLECTION STATUTES</b>
Rhode Island	R.I. Gen. Laws §§ 5-61-1 to 5-61-6	R.I. Gen. Laws §§ 19-14.9-1 to 19-4.9-14
South Carolina	S.C. Code Ann. §§ 16-17-445 to 16-17-446	S.C. Code Ann. § 37-5-108
South Dakota	S.D. Codified Laws Ann §§ 37-30A-1 <i>et. seq.</i> , 49-31-101 to 49-31-108 (Do-Not Call Register)	None
Tennessee	Tenn. Code Ann. §§ 47-18-1501 to 47-18-1527, 65-4-401 to 65-4-408 (Telephone Solicitation)	Tenn. Code Ann. §§ 62-20-101 to 62-20-127
Texas	Tex. Bus. & Com. Code Ann. §§44.001 to 44.253 <i>et seq.</i> , 38.001 to 38.305, 55.121 to 55.138, 16 Tex. Admin. Code § 26.125	Tex. Fin. Code Ann. §§ 392.001 to 392.404, 396.001 to 396.353
Utah	Utah Code Ann. §§ 13-26-1 to 13-26-11, 13-25a-101 to 13-25-111	Utah Code Ann. §§12-1-1 to 12-1-11, 70C-&-105 to 106
Vermont	9 Vt Stat. Ann. § 2464 to 2464d	Vt. Stat. Ann. tit. 9 §§ 2451a to 2461
Virginia	Va. Code §§ 59.1-21.1 to 59.1-21.7, 59.1-510 to 59.1-518	Va. Code § 18.2-213
Washington	Wash. Rev. Code §§ 19.158.010 to 19.158.901	Wash. Rev. Code Ann. §§19.16.100 to 19.16.950

West Virginia	W. Va. Code § 46A-6F-101 to 46A-6F-703	W.Va. Code Ann. §§ 47-16-1 to 47-16-5, 46a-2-122 to 46a-2-129a, 48-1-307
Wisconsin	Wisc. Stat. §§ 423.201 to 423.205, 100-52	Wis. Stat. Ann. §§ 218.04
Wyoming	Wyo. Stat. Ann. §§ 40-12-301 to 40-12-305	Wyo. Stat. §§ 33-11-101 to 33-11-116, 40-14-507

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## **FEDERAL PARTNERS**

### **Department of Justice Civil Division, Consumer Protection Branch**

The Consumer Protection Branch (“CPB”) of the Civil Division of the United States Department of Justice is a litigating office that brings civil and criminal enforcement actions in consumer-protection related areas.

CPB is responsible for litigation arising under a variety of federal statutes administered by federal regulatory agencies that protect public health and safety, and under general federal statutes that set forth penalties for activity that may harm consumers. The Branch’s broad mission is to safeguard consumers and to represent government agencies that serve consumers. CPB’s affirmative litigation involves areas such as adulterated and misbranded food, drugs, and devices; hazardous and unsafe consumer products; unfair and deceptive advertising and franchising practices; unfair consumer credit and debt collection practices; deceptive and fraudulent internet and mail order sales; all types of financial fraud; and unlawful practices that target vulnerable consumer populations.

The Branch receives case referrals from a number of agencies, including the Federal Trade Commission (“FTC”), the Food and Drug Administration (“FDA”), and the Consumer Product Safety Commission (“CPSC”). CPB also generates its own cases and becomes involved in consumer-related cases in which United States Attorneys’ Offices seek assistance, often acting as co-counsel with Assistant United States Attorneys. The Branch consists of approximately 40 attorneys litigating criminal and civil cases nationwide. Its work is aided by substantial litigation support resources, including a cadre of experienced paralegals and data management specialists.

CPB attorneys are experienced in litigating complex criminal and civil cases and have done so in federal judicial districts throughout the United States. Our attorneys have expertise in a wide variety of substantive areas, including the laws governing food, drugs and devices, consumer protection, and product safety. The Branch is responsible for enforcing such landmark public interest statutes as the Food, Drug, and Cosmetic Act, the Federal Trade Commission Act, and the Consumer Product Safety Act. And CPB attorneys also regularly prosecute criminal violations of the mail and wire fraud statutes and other provisions of the criminal code.

The Consumer Protection Branch’s criminal enforcement efforts have made impacts in reducing the vulnerability of consumers to fraud and abuse. Notable areas of success have included prosecutions of:

- fraudulent foreclosure rescue schemes
- the diversion and counterfeiting of prescription drugs;
- off-label promotion of prescription drugs;
- fraudulent and deceptive marketing and sale of dietary supplements;
- odometer tampering; and



- illegal distribution of fireworks and explosives.

Another realm in which CPB has been particularly successful in protecting consumers is in the area of business opportunities. The field of business opportunities, which offer consumers purported opportunities to run their own businesses and make substantial amounts of money, has been rife with fraud. Working with the FTC, Branch attorneys have brought countless civil actions against purveyors of fraudulent business opportunities, obtaining civil penalties and injunctive relief.

In recent years, CPB has amped up the pressure on fraudsters, bringing numerous criminal prosecutions against individuals engaged in business opportunity fraud. Working with the Postal Inspection Service, the Branch has devoted substantial resources to prosecuting “bizopp” fraud, particularly in southern Florida, where this industry has been concentrated. Prosecutions in this area have included charges involving mail and wire fraud, conspiracy, and, where a previous enforcement effort resulted in a judicial or administrative order governing a target’s conduct, criminal contempt. The prosecutions involved dozens of different business opportunities that, combined, victimized thousands of consumers of millions of dollars.

In addition to business opportunity fraud the Consumer Protection Branch has brought a number of civil and criminal enforcement actions related to consumer credit and debt matters as well as unlawful telemarketing practices. CPB attorneys are well-versed and highly experienced in the various consumer protection statutes and regulations that govern consumer credit and loans, debt collection, privacy, and identity. The enforcement of these laws, which largely fall under the FTC regulatory umbrella, make up a substantial portion of the Branch’s work and have a significant impact on the lives and livelihoods of consumers – including civilians and military alike.

Among the various statutes the Consumer Protection Branch enforces are:

- The *Telemarketing and Consumer Fraud and Abuse Prevention Act*;
- The *Telemarketing Sales Rule*;
- The *Truth in Lending Act*;
- The *Fair Credit Billing Act*;
- The *Equal Credit Opportunity Act*;
- The *Fair Credit Reporting Act*;
- The *Credit Repair Organizations Act*; and
- The *Fair Debt Collection Practices Act*

The Consumer Protection Branch stands ready, willing, and able to bring its expertise and resources to bear in the protection of service members from fraudulent and abusive practices – particularly in the areas of credit, debt, privacy, and identity. Consumer Protection attorneys have the experience, resources, and knowhow to spearhead enforcement in these areas and, together with the FTC, the United States Attorneys’ Offices, and law enforcement partners throughout the nation, help ensure that members of

our military are not victimized by unscrupulous or unlawful practices in their financial affairs and home lives.

### **Points of Contact at the Consumer Protection Branch**

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## CONSUMER FINANCIAL PROTECTION BUREAU

In July, 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which created the Consumer Financial Protection Bureau (the CFPB). The CFPB supervises financial institutions for compliance with over 19 federal consumer protection statutes as they pertain to financial products and services. The statutes range from the Fair Debt Collection Practices Act, to the Real Estate Settlement Procedures Act, to the Equal Credit Opportunity Act. In addition, we recently received authority to enforce the Military Lending Act.

For a list of regulations administered and enforced by the CFPB, including a link to the electronic code of each regulation, see <http://www.consumerfinance.gov/regulations/>.

If you have questions about the enforcement of one of these statutes, contact: Khalid Hargrove, Enforcement Attorney: [Khalid.hargrove@cfpb.gov](mailto:Khalid.hargrove@cfpb.gov) at 202-435-7817.

In addition to supervising and enforcing a wide-range of consumer protection statutes, the CFPB also accepts complaints on a variety of financial products, including: credit cards, mortgages, bank accounts, consumer loans, student loans, and credit reporting. : <http://www.consumerfinance.gov/complaint/>. See *infra*, “Where to Complain.”

Finally, the Dodd-Frank Act created a special office to address the financial concerns of Servicemembers, veterans, and their families. The Office of Servicemember Affairs is tasked with monitoring complaints and coordinating with other federal and state agencies in order to address the unique challenges faced by our community.

If you have questions or concerns you would like to discuss with members of the Office of Servicemember Affairs, please email us at: [military@cfpb.gov](mailto:military@cfpb.gov)

# FEDERAL TRADE COMMISSION

## Bureau of Consumer Protection

The FTC's Bureau of Consumer Protection stops unfair, deceptive or fraudulent practices in the marketplace. BCP conducts investigations, sues companies and people that violate the law, develops rules to ensure a vibrant marketplace, and educates consumers and businesses about their rights and responsibilities. They collect complaints about hundreds of issues from data security and deceptive advertising to identity theft and Do Not Call violations, and make them available to law enforcement agencies worldwide for follow-up.

BCP's experienced and motivated staff is nimble, using 21st century tools to anticipate – and respond to – changes in the marketplace. As we approach our 100th anniversary, BCP is proud to be the nation's cop on the consumer beat, prepared to meet current challenges – and those around the corner -- with expertise and excitement.

BCP has seven divisions:

1. Advertising Practices protects consumers by enforcing the nation's truth-in-advertising laws, with particular emphasis on claims for food, over-the-counter drugs, dietary supplements, alcohol and tobacco, and on conduct related to high-tech products and the Internet; and by enforcing the Children's Online Privacy Protection Act.
2. Consumer and Business Education plans, develops, and implements creative national campaigns in plain English and Spanish to alert consumers to their rights and to explain the science of compliance to industry.
3. Enforcement litigates civil contempt and civil penalty actions to enforce all FTC federal court injunctions and administrative orders that address consumer protection issues, including advertising and financial practices, data security, high-tech fraud, and telemarketing and other scams. The Division also coordinates FTC actions with criminal law enforcement agencies through its Criminal Liaison Unit; develops, reviews, and enforces a variety of consumer protection rules; and runs the Bureau's Hispanic initiative, bankruptcy program, and collections shop.
4. Financial Practices protects consumers from deceptive and unfair practices in the financial services industry, including protecting consumers from predatory or discriminatory lending practices, as well as deceptive or unfair loan servicing, debt collection, and credit counseling or other debt assistance practices.
5. Marketing Practices leads the Commission's response to Internet, telecommunications, and direct-mail fraud; deceptive spam; fraudulent business, investment, and work-at-home schemes; and violations of the Do Not Call provisions of the Telemarketing Sales Rule.

6. Planning & Information collects and analyzes complaints about consumer fraud, identity theft, and the National Do Not Call Registry, and makes them available to law enforcement; helps distribute redress to consumers; and provides cutting-edge technological investigative and litigation support.
7. Privacy and Identity Protection protects consumers' privacy; works to prevent identity theft and aids consumers whose identities have been stolen; and implements laws and regulations for the credit reporting industry, including the Fair Credit Reporting Act.

#### Point of Contact List at FTC Regional Offices Regarding Servicemember Issues

##### ECR-Cleveland (DC, DE, MD, MI, OH, PA, VA, WV)

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Uniformed Services Worldwide  
Legal Assistance Office Directory

This directory is designed to be a quick reference for Service Legal Assistance Offices in the United States. There are also several links used by the Services that will help identify Legal Assistance Offices in various locations throughout the country.

The following link takes you to a consolidated list of Legal Assistance Offices throughout the Department of Defense and is a good resource regardless of your service:  
<http://legalassistance.law.af.mil/content/locator.php>

The Air Force use a separate link: <https://aflegalassistance.law.af.mil/>

The Navy also uses a separate link:  
[http://www.jag.navy.mil/legal\\_services/legal\\_services\\_locator\\_rls.htm](http://www.jag.navy.mil/legal_services/legal_services_locator_rls.htm)

The Coast uses the following link:  
[http://www.uscg.mil/legal/la/Legal\\_Assistance\\_Find\\_Lawyer.asp](http://www.uscg.mil/legal/la/Legal_Assistance_Find_Lawyer.asp)

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- The Consumer Protection Branch of the Civil Division, US Department of Justice:

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Andy Clark  
Assistant Director



**2013**

Financial Fraud  
Enforcement  
Task Force  
Consumer  
Protection  
Working Group

Servicemember  
Subgroup



# **JAG/LEGAL ASSISTANCE CONSUMER FRAUD ENFORCEMENT TOOL KIT**





## Office of the Attorney General

Washington, D.C. 20530

March 7, 2013

Dear Law Enforcement Partner:

Even as our economy shows signs of improvement, financial fraud remains a growing threat to so many. And it can affect even the strongest and bravest among us -- our servicemembers and veterans.

This type of financial fraud is unacceptable. Financial crimes can be just as devastating as violent ones, and can wreak havoc not just on an individual, but on whole families. We as a Nation owe an incredible debt to our servicemembers and veterans and need to work together to protect them -- just as they do us. Because of that debt, it is our responsibility to use all available tools to deter and hold accountable those who would prey upon our servicemembers and veterans for financial gain.

That is why the Department of Justice, along with State Attorneys General, have come together in an historic fashion to express our commitment to greater enforcement against these pernicious forms of financial fraud. One product of that collaboration has been a set of enforcement toolkits containing the information that United States Attorneys, JAG Legal Assistance Attorneys, and State Attorneys General need to take effective enforcement action in this area. We believe that these enforcement toolkits will increase (1) dialogue amongst law enforcement about financial scams affecting the military; (2) referrals between military, state, and federal partners of potential investigative leads; and, most importantly (3) the number of civil and criminal cases brought against those who would defraud our servicemembers and veterans.

We implore you not just to review the materials herein, but keep them handy. Use them. Talk about consumer frauds that affect the military. Encourage those affected by fraud and other deceptive practices to report. Refer matters. Bring cases. And together, we may be able to prevent and stop this insidious financial fraud.

Thank you for all you do.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric H. Holder, Jr.", is written over a horizontal line.

Eric H. Holder, Jr.  
Attorney General

## A Message from Co-Chairs of the FFETF Consumer Protection Working Group

Effective consumer protection requires that all levels and branches of government work together to deliver more targeted prevention and enforcement. Communication, collaboration, and responsiveness are three key components in this effort. The educated consumer is, and always will be, the very best protection against fraud and deceit.

With that collaboration in mind, President Obama established the interagency Financial Fraud Enforcement Task Force (the "FFETF") in 2009. We co-chair the Consumer Protection Working Group of that Task Force, focused on identifying threats to consumers, and working together to prevent and stop them.

The public that we protect is also safeguarded by those who defend us all – our active duty and reserve military servicemembers. Many of us know someone who has served in our Armed Forces. We all share an appreciation of the sacrifices made by those who protect us. Our service members don't ask for glory or to be described as heroes. They simply want to do their jobs, come home to their families, and enjoy the same freedoms and protections as others in America.

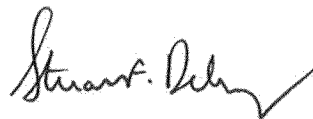
That is why financial scams directed at servicemembers, veterans and their families are so insidious – and why we have made stopping them a priority of the Consumer Protection Working Group. One way to demonstrate our thanks to those who give so much is to raise awareness, within the military and among those in law enforcement, about the specific consumer threats facing servicemembers and also to help build comprehensive strategy to target those threats.

This toolkit is designed to provide an overview of common consumer scams affecting the military, applicable federal and state laws, available federal and state partners, models for outreach to the military community, and sample legal materials to assist United States Attorneys and their AUSAs in bringing more enforcement in this area. We know that United States Attorney's Offices around the country are engaged in the same effort – conducting fraud prevention training in Bridgeport Connecticut, and base visits in Pensacola, Florida and in the District of Kentucky, for example. Our hope is that this toolkit offers an enforcement and outreach model for others to draw from, and a guide to better understanding some of the challenges faced by our servicemembers and their families.

To those reading this toolkit who have served in our military, we thank you for your sacrifice. To those US Attorneys seeking to bring more actions addressing fraud on servicemembers and their families, we hope that this toolkit provides a useful template for you and we look forward to working with you in the days to come.



André Birotte Jr.  
United States Attorney  
Central District of California



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Civil Division  
Department of Justice

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# I. Background

In 2009, President Obama created the Financial Fraud Enforcement Task Force to respond to the causes and consequences of the nationwide financial crisis. The task force operates through a series of working groups, one of which is the Consumer Protection Working Group, designed to bring together federal and state law enforcement with regulatory partners to address threats to consumers. As part of that effort, the Consumer Protection Working Group recognized a need to promote awareness and enforcement of the rising level of scams and frauds perpetrated against current and past members of the military. To begin meeting that need, the group developed this toolkit, which provides an overview of common consumer scams affecting members of the military, applicable federal and state laws, available federal and state partners, and sample legal materials to assist legal assistance officers in helping their clients. By encouraging early identification and frequent referral of consumer fraud matters, this toolkit aims at increasing enforcement against those who prey on servicemembers, veterans, and their families.

There are several reasons why military consumers may be targeted by those engaged in fraud:

1. **Laws.** There are some particular laws, like the Uniform Code of Military Justice, that apply specifically to the military community that do not apply to the public in general in certain instances of consumer protection. Servicemembers can face adverse action under the Uniform Code of Military Justice for failing to pay a debt – which may make them hesitant to challenge the debt, question poor business practices, or even seek assistance from the chain of command.
2. **Financial Inexperience.** Many servicemembers are young and relatively inexperienced in consumer affairs. For many, this is their first steady paycheck. Servicemembers may be targeted by the unscrupulous who know they have limited time and access to consumer products and “money to burn.”
3. **Frequent Moves.** Servicemembers move frequently and don’t always know which businesses to avoid in a new community. And, after a move, servicemembers can face pressure to quickly get their personal affairs in order, particularly when faced with a pending exercise or deployment.

## **II. COMMON SCAMS AFFECTING SERVICEMEMBERS AND THEIR FAMILIES**

### **LENDING**

Servicemembers often become targets for abusive lending practices because they have steady paychecks and are generally young and inexperienced in financial matters. Servicemembers are required to receive their paychecks via direct deposit, thus requiring the maintenance of a bank account, making them prime subjects for lending scams that make use of those kinds of accounts. Lending issues are especially critical for servicemembers because necessary security clearances may be lost if finances are not properly maintained. Some of the lenders who take advantage of a servicemember's need for quick cash set up shop in close proximity to military installations or specifically target servicemembers via the internet. Many of these scams involve short-term loans that include high interest rates and hidden fees. Abusive lending can arise in a vast array of credit transactions, ranging from payday and installment loans to car title loans to rent-to-own products. Debt collection related to these loans can sometimes lead to threats and harassment that scam servicemembers and their families out of their hard-earned money.

#### **Military Lending Act**

After an extensive study of the ways in which predatory lending affects American servicemembers, Congress enacted the John Warner National Defense Authorization Act of 2007. The Military Lending Act is a ("MLA") provision of that bill.<sup>1</sup> The MLA and its corresponding regulations went into effect October 1, 2007. This Act and corresponding regulations seek to protect active servicemembers from predatory lending by setting a strict 36% inclusive rate limit (which includes fees and charges) for certain closed-end consumer credit transactions, including payday, car title, and tax refund anticipation loans. The statute expressly excludes from its protections residential mortgages and loans procured in purchasing a car or other personal property when the loan is offered for financing that purchase and is secured by the car or property. However, for covered consumer credit transactions involving servicemembers, these provisions prohibit:

- Roll-overs, renewals, refinancing, and consolidation, unless the new terms benefit the servicemember;
- Mandatory arbitration clauses and waivers of legal rights;
- Securing a loan with a personal check or access to a bank account;
- Requiring repayment through military allotment; and
- Prepayment penalties.

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<sup>1</sup> Military Lending Act, 10 U.S.C. § 987 (2013); Department of Defense Military Lending Act Regulations, 32 C.F.R. pt. 232 (2013).

In these consumer credit transactions, creditors must additionally disclose the military annual percentage rate, as well as provide a clear description of the payment obligations and any other disclosures required by the Truth in Lending Act (TILA).<sup>2</sup>

The National Defense Authorization Act for Fiscal Year 2013, signed into law on January 2, 2013, by President Obama, made changes to the MLA, adding provisions that allow for civil penalties and grant MLA enforcement authority to agencies listed in section 108 of TILA.<sup>3</sup>

Creditors who knowingly violate the MLA can be found guilty of a misdemeanor and accordingly fined or imprisoned up to one year.<sup>4</sup> Recent amendments to the law provide for civil penalties for violation of the Act.<sup>5</sup> Individuals who have been harmed can seek actual damages, punitive damages, equitable or declaratory relief, or “any other relief provided by law.”<sup>6</sup>

The MLA has significant limits. The protections apply only to active-duty servicemembers, reservists, and their dependents, but not to inactive personnel, retirees, or veterans who also are often victims of abusive lending practices. In addition, lenders have adapted to the regulations’ parameters by manipulating their credit products in order to evade the definition of consumer credit; this is commonly accomplished through altering the length of a loan term or by offering a loan whose total amount exceeds the regulatory limit. Finally, installment loans and rent-to-own financing are not included under the terms of the statute or regulations, frequently leaving servicemembers vulnerable to high rates and unfair practices for those credit products.

### States and the MLA

State laws that are more protective of servicemembers for covered credit products are not preempted by the federal MLA. Thus, if a state has rate caps that are lower than the 36% bar for such products, the state can enforce those lower rates. The regulations also require states to enforce their laws to protect non-resident servicemembers who are stationed in their states.<sup>7</sup> It had been unclear whether this requirement applied to all credit products offered to servicemembers or just to those included in the MLA regulations; recent amendments to the MLA implied that Congress intends these protections to apply only to the enumerated consumer credit products in the regulations (payday, car title, and tax refund anticipation loans).<sup>8</sup>

While the recent Congressional enactment expands the federal agencies that can enforce the MLA, five states have passed their own laws that expressly allow them to enforce the provisions of the Act.<sup>9</sup> However, many states have protections greater than those afforded by MLA and thus would have little use for it.

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<sup>2</sup> § 232.6.

<sup>3</sup> National Defense Authorization Act for Fiscal Year 2013, 2012 H.R. 4310 §§ 661-663 (2012).

<sup>4</sup> 10 U.S.C. 987(f)(1) (2013).

<sup>5</sup> 2012 H.R. 4310 § 662(a) (to be codified at 10 U.S.C. § 987(f)(5)).

<sup>6</sup> *Id.*

<sup>7</sup> 32 C.F.R. § 232.7(b) (2013).

<sup>8</sup> 2012 H.R. § 661(a).

<sup>9</sup> See *infra* State Statutes that Address Military Lending Act (10 U.S.C. § 987).

## Payday Loans

Payday loans are short-term, high-interest loans for which a borrower typically gives the lender a postdated check for the loan amount plus any additional fees. If the loan is not paid back by a certain deadline (often the borrower's next payday), the lender is authorized to redeem the check. Because of the short payback period for these loans, rates and fees are often extremely high. Under MLA regulations, a payday loan is defined as closed-end credit with a term of 91 days or less in which the amount financed does not exceed \$2,000.<sup>10</sup> In addition, the borrower must receive funds and incur interest or fees and at the same time either provide a check or other payment instrument to the creditor who promises not to deposit the check for more than one day, or authorize the creditor to initiate a debit to the borrower's deposit account after one or more days.<sup>11</sup> Loans for amounts greater than \$2,000 or for terms longer than 91 days are not considered payday loans under the regulations and are thus not subject to the 36% rate cap or the other protections included in the MLA.

Because the regulations prohibit creditors from making a loan that uses a check or other method of access to a servicemember's deposit, savings, or other account, most traditional forms of payday lending are technically off-limits to servicemembers.<sup>12</sup> However, lenders can make loans that require an electronic fund transfer, a direct deposit of salary as a condition of eligibility, or take a security interest in funds deposited in an account created in connection with the transaction so long as the 36% rate limit is followed.

While payday loans can provide servicemembers with quick access to cash, the high rates and fees can force servicemembers onto a "payday treadmill," in which they must repeatedly take out additional loans in order to pay off their initial debt obligation. Businesses in the payday loan industry frequently exist in the form of actual brick-and-mortar establishments which are located near military installations and actively seek the patronage of servicemembers and their families. In recent years, payday lenders have also proliferated on internet sites that directly market and cater to servicemembers. While many physical payday storefronts near military bases have been eliminated as a result of the strict restrictions emanating from the MLA, efforts to reduce the availability of these loans online have been less successful.

Despite the broad prohibitions on payday loans in the MLA and regulations, there is evidence that servicemembers and their dependents are continuing to obtain such loans, sometimes through falsification of application information or because lenders simply fail to follow MLA protocol when a servicemember is involved in a transaction. The rise of internet loans has drawn special concern, even though the MLA regulations expressly prohibit securing a payday loan through electronic access to a servicemember's bank account. These internet sites, which require borrowers to fill out applications online, often structure loans with longer terms or as "open-end" credit in order to avoid the requirements of the MLA. Enforcement of the MLA and state laws has proven challenging due to claims of tribal sovereign immunity by some lenders and inconsistencies in state licensing requirements.

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<sup>10</sup> Definitions, 32 C.F.R. § 232.3 (b)(1)(i) (2013).

<sup>11</sup> *Id.*

<sup>12</sup> 32 C.F.R. § 232.8(5).

Direct deposit advances, which are similar to payday loans, are a more recent development and are usually conducted by banks. When a consumer authorizes one of these advances, funds are deposited into the borrower's account and get repaid at the time of the next deposit regardless of whether there are sufficient funds in the account or not (which can lead to overdraft fees). These advances typically have annual percentage rates (APRs) in excess of 300 percent. Banks such as Regions Bank, Fifth Third, and Wells Fargo have been identified as entities that provide this type of advance, even in states in which payday lending is restricted. This advance system represents a growing form of lending that could substantially impact the finances of servicemembers.

Several states have already banned, either expressly or effectively, payday lending in any form, rendering moot the payday protections of the MLA.<sup>13</sup> Thirty-three states do authorize high-cost payday lending, four of which possess statutes allowing the state to enforce the MLA and its regulations (California, Nevada, Illinois, and Texas). At least 21 states have the authority to revoke lending licenses generally for violations of either "any law" or a "federal law," though the procedures for doing so vary widely. Some states additionally require a show of financial misconduct before licenses are revoked. Because there is such a diversity of state law on this front, you should check your state statutes and regulations to determine if usury laws or small-loan interest caps are more stringent than those provided by the MLA.

### **Refund Anticipation Loans**

Lenders in the refund anticipation loan market are financed by depository institutions and are thus regulated by federal agencies. The MLA regulations promulgated by the Department of Defense have defined these loans as closed-end credit in which a borrower gives the lender the right to receive the borrower's income tax refund, or in which a borrower promises to pay the loan back out of tax refund proceeds.<sup>14</sup> If a credit transaction to a servicemember meets this definition, then the rate cap and additional MLA protections will apply. While a handful of states require refund anticipation loan originators to register with the state, national banks are generally exempted from this requirement. However, action taken by the IRS, FDIC, and the Office of the Comptroller of the Currency have effectively eliminated this market by determining that it is not a viable practice for banks.

### **Consumer Finance Loans**

Consumer finance loans are often sought by servicemembers with little or no credit to cover purchases and other costs. These loans can take a number of forms, though they generally include high APRs and costly add-ons, but are spread over a longer term than payday loans. They also occasionally involve principal that exceeds the \$2,000 payday limit in the MLA regulations. As such, most of these loans are not covered by that Act — meaning they are not subject to the 36% rate limit and the protections regarding disclosures, prepayment penalties, and allotments. Nevertheless, some states have enacted laws that impose rate caps and other restrictions for consumer finance loans.

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<sup>13</sup> According to a 2012 Consumer Federation of America report, these states include: Georgia, New York, New Jersey, Arkansas, Arizona, Connecticut, Maryland, Massachusetts, North Carolina, Pennsylvania, Vermont, West Virginia, New Hampshire, Montana, Ohio, and Washington, D.C..

<sup>14</sup> 32 C.F.R. § 232.3(b)(1)(iii)(2013).



Under the provisions of the Servicemembers Civil Relief Act (SCRA), soldiers on active duty may cap the interest rate on most outstanding loans (incurred before service) at six percent. To do so, the servicemember should write a letter to each creditor letting them know about their order and intent to invoke the six percent cap.

### **Installment Loans**

Because the MLA and its regulations do not govern installment loans and rent-to-own financing in their terms, servicemembers still receive these types of loans, which can lead to “extremely high rates and risky forms of security, inconsistent supervision at the state level, and [having] pay drained by military allotments when borrowing or financing purchases with these creditors.” Many of these products are marketed directly toward servicemembers and their families. Installment loans can have APRs well above 36 percent, occasionally reaching a level of 100 percent or more. These loans typically range from \$500 to \$10,000 and are usually paid off over a period of one to three years by using military pay allotments. They are offered both in physical branch locations as well as over the internet.

As installment loans are not included in the protections of the MLA, if lenders structure loans with terms longer than 91 days, they will be able to impose higher rates and fees. Your state may have provisions that limit these rates or require specific disclosures. The Consumer Federation of America has identified several specialty military lenders, including Omni Financial (based in Nevada), Patriot Loan Co. (based in South Carolina), and Pioneer Financial Services, Inc. (based in Georgia), as prominent actors in this field. These companies extend credit to servicemembers and encourage repayment by military allotment, though most are not licensed in the all states in which they make loans. Some states have instituted actions against these companies, as in 2008, when regulators in Nevada filed a consent order against American Military Funding Inc. for unlicensed lending.

### **Retail Installment/Rent-to-Own**

Many complaints from servicemembers regarding retail installment sales and rent-to-own products have been documented. The businesses which have been the subject of these complaints—which often sell products through credit paid by military allotment—offer electronics, furniture, and jewelry to servicemembers in stores located near military installations. Because these installment agreements are usually structured with longer repayment terms, they do not fall under the protections of the MLA. Thus, servicemembers often buy products with high interest and fees, or alternatively with lower interest over such long terms that the products end up being several times more expensive than the actual retail price at other stores.

State attorneys general from New York and Tennessee have taken action against Britlee, Inc. (who did business as SmartBuy, The Military Zone, and Laptoyz Computers and Electronics near several military bases), for excessive fees and for requiring payment by military allotment. The Consumer Federation of America also identified USA Discounters, Harris Jewelry, and Freedom Furniture and Electronics as companies in this industry that promote their products directly to servicemembers. These businesses frequently include in fine print that the total cost of the items must be arrived at by multiplying the normal payment by 48, since payment plans

often are often scheduled for two years of twice-monthly payments. Many servicemembers are thus deceived as to the true cost of the item they are purchasing.

Many rent-to-own establishments such as Rent-A-Center are also located near military bases. Complaints over these businesses have stemmed from high rates, total costs greatly exceeding typical retail, and requirements that servicemembers pay via military allotment. The MLA does not cover these rent-to-own businesses, though your state may have specific restrictions on the types of rates and fees that may be charged.

## **Auto Financing**

Automobile-related lending scams are some of the most prevalent sources of complaints from servicemembers each year. Some of the most common scams upon servicemembers involve “yo-yo” financing, buy here/pay here lots, loan packing with expensive add-ons, and falsifying applications to put servicemembers into unaffordable loans. Some of these actions occur at dealerships that are located near military bases or at businesses that advertise specifically to servicemembers and their families.

The Federal Trade Commission has taken action against several car dealers in recent years, mostly for deceptive advertising practices. Your state may provide for certain disclosures in automobile transactions or may allow for actions against these auto dealers under unfair and deceptive acts and practices law.

Soldiers on deployment are able to legally terminate some auto leases. Servicemembers wishing to do so should contact the leaseholder and inform them of their deployment.

## **Car Title Loan**

A majority of states already prohibit car title lending, either by explicitly banning the practice or effectively banning it by rate caps. A vehicle title loan is defined by the MLA as closed-end credit with a term of 181 days or less that is secured by title to a registered vehicle.<sup>15</sup> If a car title loan falls under this definition, then the 36% rate cap and the other MLA protections will apply when being extended to a servicemember or a dependent. Most of these loans have an APR of around 300 percent and can result in repossession if not repaid. These car title loans are occasionally crafted with longer term limits or as open-credit transactions to evade MLA requirements. Some states such as California have laws that address these abusive practices. You should check your state statutes to find if there are any applicable provisions.

## **Yo-Yo Scams/ Spot Delivery**

In a yo-yo scam, after a consumer leaves the car dealership believing that financing has been finalized on the purchase of an automobile, the individual will later be contacted by the dealer which then states that the deal has been cancelled and the car must be returned. Dealers effectively claim that they can cancel the contract, thereby allowing them to charge higher interest rates and fees to the purchaser. The dealer may also attempt to physically repossess the

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<sup>15</sup> Definitions, 32 C.F.R. § 232.3 (b)(1)(ii) (2013).

car. Some dealers may also refuse to return the consumer's down payment or trade-in vehicle to pressure the consumer into agreeing to an unfavorable loan. Such practices are prohibited in some states so check your state's consumer unfair and deceptive acts and practices laws for applicable provisions.

### **Loan Packing**

Car dealerships will often try to market add-on products to consumers, including vehicle service contracts, insurance, and assorted upgrades. These products are often not included in the sale price and are frequently sold to the purchaser based on the monthly payment amount, making it difficult for the purchaser to determine the total cost of the transaction.

### **Buy Here/Pay Here Dealerships**

"Buy here/pay here" establishments usually target individuals with bad credit or no credit, and can be located near military installations. Prices are often not listed on the cars on the lot. Financing is typically done in-house and the automobile financing plan usually has an APR around 25%. There are often large down payments as well as payment required on a weekly basis. Buy here/pay here dealerships are also infamous for repossessing an automobile as soon as it appears that the consumer will be delinquent on a payment.

### **Debt Collection**

Charges of abusive debt collection practices against servicemembers are one of the largest complaint categories in the FTC's Military Sentinel database, ranking just behind identity theft. Those engaged in the payday loan business will occasionally sell information that a servicemember has entered into a loan application which can then be used for collecting a debt that may not be legitimate, even if the individual decides not to go through with the loan. These debt collectors often target servicemembers by calling their homes and demanding that they or their families send funds through a transmittal service in order to settle an outstanding debt, even if one does not exist.<sup>16</sup> A variety of threats, including reporting the servicemember to his or her commanding officer, may be used in order to extort money from the individual.

An important tool in the fight against abusive debt collectors is the Fair Debt Collection Practices Act (15 U.S.C. § 1692-1692p) ("FDCPA"), which prohibits third-party debt collectors from employing deceptive or abusive conduct in the collection of consumer debts incurred for personal, family, or household purposes. (The term "debt collector" generally does not cover creditors collecting their own debts). Such collectors may not, for example, contact debtors at odd hours, subject them to repeated telephone calls, threaten legal action that is not actually contemplated, or reveal to other persons the existence of debts. The Consumer Protection Branch of the Department of Justice's Civil Division ("CPB") enforces violations of the FDCPA, which are treated as unfair or deceptive acts or practices in violation of the FTC Act.

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<sup>16</sup> Office of the Colorado Attorney General, Consumer Guide for Military Personnel and Their Families (2012), available at <https://www.coloradoattorneygeneral.gov/sites/default/files/uploads/CP/Military%20Guide%20-%20Print%20Version%20%28Final%29%20814-12%29.pdf>

Among the Act's provisions:

- A debt collector may not contact a consumer at inconvenient times or places, such as before 8 in the morning or after 9 at night, unless the consumer agrees to it. And collectors may not contact consumers at work if they're told (orally or in writing) that the consumer is not allowed to get calls there.
- Once a collector receives written notice, they may not contact the consumer again except to tell the consumer there will be no further contact or to let the consumer know that they or the creditor intend to take a specific action, like filing a lawsuit.
- If an attorney represents a consumer with respect to a debt, the debt collector must contact the attorney, rather than the consumer. If the consumer does not have an attorney, a collector may contact other people – but only to find out the consumer's address, home phone number, and place of employment. Collectors usually are prohibited from contacting third parties more than once. Other than to obtain location information, a debt collector generally is not permitted to discuss a consumer's debt with anyone other than the consumer, their spouse, or their attorney.

Debt collectors may not:

- use threats of violence or harm;
- publish a list of names of people who refuse to pay their debts;
- use obscene or profane language;
- repeatedly use the phone to annoy someone;
- falsely claim that they are attorneys or government representatives;
- falsely claim that a consumer has committed a crime;
- falsely represent that they operate or work for a credit reporting company;
- misrepresent the amount owed;
- indicate that papers they send are legal forms if they aren't;
- indicate that papers they send are not legal forms if they are;
- threaten a consumer with arrest if he or she doesn't pay the debt;
- threaten to seize, garnish, attach, or sell a consumer's property or wages unless they are permitted by law to take the action and intend to do so;
- threaten legal action against the consumer, if doing so would be illegal or if they do not intend to take the action.
- give false credit information about the consumer to anyone, including a credit reporting company;
- send anything that looks like an official document from a court or government agency if it isn't;
- use a false company name; or
- try to collect any interest, fee, or other charge on top of the amount owed unless the contract that created the debt – or state law – allows the charge.

# **EDUCATION**

## **Quick Overview of Benefits Available**

### **Department of Defense benefits**

- Tuition Assistance
- Military Spouse Advancement Accounts (MyCAA)

### **VA benefits**

- Montgomery GI Bill
- Post 9/11 GI Bill
- Veteran's Educational Assistance Program
- Survivor and Dependent Educational Assistance (DEA)

## **For-profit schools**

### **Background and Overview of the 90-10 Rule**

The 90-10 rule is a federal law barring for-profit colleges from receiving more than 90% of their revenues from Title IV Department of Education (DOE) federal student aid.<sup>17</sup> The rule arose from the desire of Congress to protect veterans and weed out those institutions which could survive only by the heavy influx of Federal payments.”<sup>18</sup>

### **Current Law**

The restrictions on revenue percentages at for-profit colleges were initially introduced in 1992 as the “85-15 Rule.” In 1998, Congress amended this law to create the 90-10 rule, which reduced to 10 percent the proportion of revenues for-profit schools must obtain from sources other than federal student aid. These revenues can include cash payments from students, private student loans, state educational grants, and federal education assistance payments for veterans and servicemembers. For-profit schools are required to report in their annual financial statements the percentage of their total revenues obtained from federal student aid funds. This calculation is called a school’s “90-10 rate” and it is verified each year by an independent auditor. Schools that do not comply with the 90-10 rule risk losing their eligibility to participate in federal student aid programs.<sup>19</sup>

Because neither DoD nor VA benefits originate through Title IV, money received through these programs is not considered federal financial aid, and is not subject to the key

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<sup>17</sup> The current language for the 90-10 rule appears in section 487(a) of HEA: “In the case of a proprietary institution of higher education (as defined in section 1002(b) of this title), such institution will derive not less than ten percent of such institution's revenues from sources other than funds provided under this subchapter and part C of subchapter I of chapter 34 of title 42, as calculated in accordance with subsection (d)(1), or will be subject to the sanctions described in subsection (d)(2).” 20 USC § 1094(a)(24).

<sup>18</sup> *Cleland v. National College of Business*, 435 U.S. 213, 218 (1978).

<sup>19</sup> Government Accountability Office (GAO), “For-Profit Schools: Large Schools and Schools that Specialize in Healthcare Are More Likely to Rely Heavily on Federal Student Aid,” October 2010.

regulatory requirement governing for-profit schools that no more than 90 percent of revenues come from federal financial aid. This state of affairs creates a loophole that for-profit colleges have exploited to attempt to take in 100 percent government revenues – 90 percent in Title IV funding and 10 percent in veterans’ benefits.<sup>20</sup>

## **Common Issues with For-Profit Colleges and Universities**

### **Accreditation and Transferability of Credits**

For-profit colleges are typically “nationally accredited” rather than “regionally accredited.” Traditional four-year colleges and universities, as well as community colleges, are regionally accredited by one of the six regional accrediting bodies.<sup>21</sup> Regionally accredited institutions do not typically accept class credits earned from those schools that are nationally accredited. Transferability of credits between a for-profit college and traditional non-profit institutions is most commonly achieved by signing a reciprocity agreement between the two institutions. In most cases a for-profit college has very few of these agreements in place. Before enrolling in a college, students are encouraged to research the school’s accreditation. Students who intend to transfer to other institutions should ask the school they intend to transfer to if they accept credits from the current school. The DOE database of accredited postsecondary institutions can be accessed online at <http://www.ope.ed.gov/accreditation/>.

### **Accreditation of Programs & Degrees**

Some school programs, especially those in the medical field, are designed to prepare a student to sit for a certain type of certification exam. Such programs often require independent, “programmatic” accreditation in addition to the general institutional accreditation. Failure to maintain this accreditation can result in students not being able to be hired or sit for certification exams. Students should make sure the program they are interested in has the proper programmatic accreditation necessary to enable the student to sit for the certification exam.

### **Certain Lead-Generating Websites Marketing to Veterans**

Many “lead-generating” websites have targeted veterans by giving the appearance that the sites are operated, owned or endorsed by the U.S. government or military. These websites are paid per each “lead” that they send to a college. These websites sometimes only list their for-profit college clients as the institutions where veteran benefits may be used. This type of deceptive practice may violate state and federal consumer protection laws.

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<sup>20</sup>In addition, current law prohibits schools from receiving federal aid if more than 30% of students default on their loans within the first three years of graduation. DOD and VA benefits do not have similar restrictions.

<sup>21</sup> The six regional accrediting agencies are: Middle States, Association of Colleges and Schools; New England Association of Schools and Colleges; North Central Association of Colleges and Schools –Higher Learning Commission; Southern Association of Colleges and Schools; Western Association of Schools and Colleges-Accrediting Commission for Senior Colleges and Universities; and Western Association of Schools and Colleges Accrediting Commission for Community and Junior Colleges.

## Student Loans

Once a servicemember decides to attend college, the next step is to figure out how to pay for it. While there are several sources of financial aid, including scholarships and grants that do not need to be paid back, one of the most popular and available options to finance a college education is a student loan. The largest provider of student loans is the U.S. Government. Each recipient of a federal student loan will deal with a single entity, the loan servicer, which could be a private company. Nevertheless, the lender is still the U.S. Government.

## Financing

Before applying for a loan, veterans need to know the total cost of education (tuition, room, fees and board, etc.). Total cost of attendance is the term of art used by higher educational institutions. Veterans can obtain this information from the educational institution that they plan to attend. They can get information from the school's website, the financial aid office or the admissions office. Information may also be available on the Internet at college search websites.<sup>22</sup>

After determining the total costs, a veteran should determine what financial resources that are available. These may include scholarships, prepaid college savings plans, grants, personal savings and money from grants. Information on scholarships and grants can also be obtained from the Internet, the veteran's school financial aid office or the admissions office of the school. In addition, there may be local community organizations offering scholarships. All grants, scholarships and veterans benefits should be exhausted before taking out a loan.

## Bankruptcy

Students loans are generally **not** dischargeable in bankruptcy.

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<sup>22</sup> Military students can research schools on the College Navigator website, a Department of Education tool for students to get information about over 7000 schools: <http://nces.ed.gov/collegenavigator/>. The Student Debt Repayment Assistant is the Consumer Financial Protection Bureau's online web tool available at <http://www.consumerfinance.gov/students/repay/>.

## **CHARITIES**

Scammers may try to use the popularity of military servicemembers or the significance of Memorial Day or Veterans Day to ramp up efforts to prey on members of the military, veterans and their supporters. While Memorial or Veterans Days are a time for Americans to remember the men and women who gave the ultimate sacrifice, fraudsters can prey on that sentiment in hopes of ripping off servicemembers or members of the general public who support them.

If you would like to donate to a charity benefiting veterans or their families make sure your money will be well spent. Don't wait on a call, email or visit from a solicitor, instead research reputable charities and contact the organization directly.

For example, you can visit the Internal Revenue Service's [website](#) that maintains a list of organizations eligible to receive tax-deductible charitable contributions. Next, find out how much the charity spends on administrative expenses, fundraising, programs and services. Several independent organizations have compiled financial information on charities, especially those that conduct nationwide solicitation campaigns. For a list of these organizations, visit the "Charities and Donors" section of various State Attorneys General's websites, such as the following link to the Indiana Attorney General's "Charities and Donors" [website](#).

If you are contacted or visited by a solicitor:

- Ask the person for written information on the charitable organization, including the charity's name, address, telephone number, mission and details on how your donation will be used;
- Watch out for charities with similar sounding names. Some unscrupulous charities use names that are very similar to those of respected organizations to scam consumers;
- Be suspicious if the solicitor or an invoice in the mail thanks you for making a pledge that you didn't make. If you have any doubt about whether you made a pledge, check your records;
- Check to see if you have the right to cancel a pledge prior to making a contribution under your state's law; and
- Always make contributions by check and payable to the charitable organization, not to the solicitor.



## **IDENTITY THEFT**

A credit report can be a great tool for spotting identity theft. A free credit report is available annually at <http://www.annualcreditreport.com>. Information on your credit report that is not familiar could indicate identity theft. If you feel you may have been a victim of identity theft, contact the Federal Trade Commission (FTC) at <http://www.consumer.ftc.gov>.

Another tool available is a credit freeze. Placing a freeze on your credit reports can block an identity thief from opening a new account or obtaining credit in your name. A credit freeze keeps new creditors from accessing your credit report without your permission. If you activate a credit freeze, an identity thief cannot take out new credit in your name, even if the thief has your Social Security number or other personal information. Credit bureaus charge between \$5 and \$12 fee to place a security freeze depending on your state. Check your state's security freeze law for payment guidelines. For example, there is no fee for Indiana residents.

To place a freeze, either use each credit agency's online process or send a letter by certified mail to each of the three credit agencies:

Equifax Security Freeze  
P.O. Box 105788  
Atlanta, GA 30348  
[www.Equifax.com](http://www.Equifax.com)

Experian Security Freeze  
P.O. Box 9554  
Allen, TX 75013  
[www.Experian.com](http://www.Experian.com)

Trans Union Security Freeze  
P.O. Box 6790  
Fullerton, CA 92834-6790  
[www.TransUnion.com](http://www.TransUnion.com)

### **Active-Duty Alert**

An Active-Duty Alert is another way a soldier can help protect his/her identity without cost. An Active-Duty Alert is placed on an individual's credit report to inform a business it is obtaining information from a soldier away on active duty, and requires the business to first obtain permission from an authorized third party before proceeding. In this case, the third party may be a trusted family member, spouse, or friend.

To place an Active Duty Alert on your credit report contact one of the major credit reporting agencies; Experian, Equifax, and Trans Union. Once notified, that agency will contact the other two agencies to inform them of the alert. Alerts are effective for one year, and must be renewed annually. Once initiated, an Active-Duty alert can be canceled at any time. The relevant credit reporting agencies may be contacted using the following information:

Trans Union: 1 (800) 680-7289  
Equifax: 1 (800) 525-6285  
Experian: 1 (888) 397-3742

# **MORTGAGE & FORECLOSURE**

## **Mortgage rescue scams**

Mortgage rescue advertisements often promise to save a home from foreclosure, but only a lender can assess qualifications for assistance. The Federal Trade Commission's Mortgage Assistance Relief Services (MARS) rule makes it illegal for companies to collect a fee until a consumer has actually received an offer from his or her lender and accepted it. That means even if a servicemember agrees to have a company help them apply for assistance, the servicemember doesn't have to pay until he or she receives results. The MARS rule also requires mortgage rescue companies to provide consumers with information about mortgage rescue services, including that a lender might refuse to modify a mortgage loan, and that consumers have the right to keep communicating with their lender directly. More information about the MARS rule, including how to file a complaint with the FTC if you've fallen victim to a mortgage rescue scam, is available at <http://www.consumer.ftc.gov/>.

Many states also have laws that require mortgage rescue companies to obtain a surety bond or register with the state. For example, Indiana law requires mortgage rescue companies to have a written contract with consumers describing in detail the services to be performed, provide consumers with a seven-day right to cancel the contract, and maintain a \$25,000 bond to be used to satisfy consumer claims. Companies that promise to repair credit or reduce debt must also file a surety bond and provide similar protections.

Servicemembers seeking mortgage assistance should also contact their respective state about free foreclosure prevention resources that are available in that state. For example, Indiana servicemembers can receive free foreclosure prevention assistance through the Indiana Foreclosure Prevention Network (IFPN). You can contact IFPN by calling 1-877-GET-HOPE or visiting <http://www.877gethope.org>.

## **Servicemembers Civil Relief Act in Mortgage Cases**

The Servicemembers Civil Relief Act (SCRA), a federal law that provides debt-related protections for servicemembers called to active duty or deployed, also applies to mortgage issues (this statute is discussed in further detail below). The SCRA covers all active duty servicemembers, reservists and members of the National Guard while on active duty. The law's protection begins on the date that a servicemember enters active duty and generally terminates within 30 to 90 days after discharge from active duty. Some of the law's protections are described below.

Servicemembers on active duty may request a cap on the interest rate on most outstanding loans (including mortgages) at 6 percent. The interest above 6 percent is forgiven. To have the interest rate reduced to 6 percent, the debt must have been incurred prior to active duty and the servicemember must send a letter to each creditor, along with a copy of current military orders, requesting relief under the SCRA. For most loans, this protection lasts only for the period of active duty. For mortgages, the protection lasts an additional year following active duty.

Soldiers who are on deployment for certain lengths of time (varying by lease/situation) or who have received permanent change of station orders are able to legally terminate some leases. If a servicemember is currently leasing a vehicle or home/apartment and wishes to terminate a lease, the servicemember should contact the leaseholder, inform them of the deployment and provide them with a copy of the relevant military orders.

In limited situations, a servicemember may be able to obtain a “stay” (a temporarily delay) in a foreclosure or other civil court proceeding if he/she is called up to active duty after the case has been filed. The servicemember must explain her absence to the court and show why the absence would materially affect the servicemember’s ability to represent her interests in the case. Similarly, servicemembers and their families may obtain a temporary stay of eviction proceedings while the servicemember is on active duty. If rent is below a certain amount (adjusted annually), the SCRA can protect a servicemember from being evicted for a period of time (generally three months). The apartment or home must be the residence of either the active duty servicemember or his or her dependents, the stay must be specifically requested, and the servicemember must show material effect.

Servicemembers should contact their nearest Armed Forces Legal Assistance Program office to see if the SCRA applies to their situation. Servicemembers’ dependents may also contact local military legal assistance offices where they live. AFLA Office locations may be found at <http://legalassistance.law.af.mil/content/locator.php>.

### **Enhanced Mortgage Protections Pursuant to the Mortgage Servicing Agreement**

On April 4, 2012 the U.S. Department of Justice (DOJ), the Department of Housing and Urban Development (HUD) and 49 state attorneys general filed a consent judgment with Bank of America Corporation, J.P. Morgan Chase & Co., Wells Fargo & Company, Citigroup Inc. and Ally Financial Inc., (“Servicers”) to resolve the banks’ violations of state and federal consumer protection laws, including past mortgage loan servicing and foreclosure abuses. The settlement also provides financial relief to borrowers harmed by bank fraud, establishes new protections for homeowners, and enhances protections for servicemembers that go beyond those required by the SCRA. The enhanced protections are listed as follows:

- Servicers must comply with the SCRA. Servicers must have a consultant review all known military foreclosures from January 1, 2009 to December 31, 2010, and provide monetary damages in compliance with the Department of Justice’s consent agreements with Countrywide<sup>23</sup> and Saxon Mortgage Services.<sup>24</sup>
- Servicers must determine whether their servicemember borrowers are eligible for SCRA protections.
- Servicers must check the DMDC website to determine whether their borrowers are serving on active military duty at the following times:
  - before referring a loan for foreclosure;
  - within seven days before a foreclosure sale; and

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<sup>23</sup> See BAC/Countrywide Consent Order.

<sup>24</sup> See Saxon Consent Order, 3:11-cv-111-F (USDC TX-ND), filed May 26, 2011.

- before the last point before a foreclosure becomes irreversible.
- When invoking their rights under the SCRA, servicemembers may provide their servicer with either military orders or a letter on official letterhead from the servicemember's commanding officer to demonstrate proof of active duty service.
- Servicers must notify servicemember borrowers who are 45 days delinquent the following:
  - they may be entitled to certain SCRA protections regarding the servicemember's interest rate and the risk of foreclosure; and
  - counseling for covered servicemembers is available at agencies such as Military OneSource, Armed Forces Legal Assistance (AFLA), and a HUD-certified housing counselor.
- Servicers may not sell, foreclose, or seize the property of a servicemember borrower for defaulting on a mortgage obligation during or within nine months after, the period in which the servicemember is serving at a location more than 750 miles from the location of the secured property or outside of the United States and is eligible for Hostile Fire/Imminent Danger Pay.
- Servicemembers are protected under this provision regardless of whether the mortgage obligation was originated before or during the period of military service.
- Servicers may not require servicemember borrowers to be delinquent to qualify for a short sale, loan modification, or other loss mitigation relief if the servicemember is experiencing financial hardship and is otherwise eligible for such loss mitigation due to a Permanent Change of Service (PCS).
- Servicers may not make inaccurate reports to credit reporting agencies when a servicemember, who has not defaulted before relocating pursuant to a PCS, obtains a short sale, loan modification, or other loss mitigation relief.

# THE LAW

State and Federal law, and sometimes both, have provisions applicable to stop the bad practices by those that prey on servicemembers and their families. Several provisions of law that may be applicable are summarized in this section.

## **FEDERAL LAW**

There are several provisions of Federal law of which to be aware when dealing with a complaint from a servicemember. The next section lists points of contact for Federal agencies that have authority for enforcing these areas of law.

### **SCRA**

*What is the SCRA?* The SCRA is a federal law designed to promote and protect those who volunteer to serve our country during times of active duty service by providing a list of consumer law protections that shield them from undue legal and financial hardships. Protections of the Act that benefit reserve component servicemembers are summarized further below. The scope of the SCRA follows immediately.

*In what types of proceedings is the SCRA enforceable?* The SCRA is enforceable in federal and State court (including all political subdivisions and in all U.S. territories.), and it applies to civil and administrative actions, but not to criminal cases.

*Who is covered under the SCRA?* The SCRA applies to members of the Uniformed Services when on active duty, including the reserves of all five branches of the Armed Forces when on active duty (the SCRA is not applicable to inactive duty status, such as week-end drills). This coverage of the reserve component includes National Guardsmen only when on federal active duty status or when active under Title 32 for more than 30 days in response to a presidential declaration of national emergency. Reserve component service members are entitled to most of the Act's "rights and protections" on the date they receive active duty orders. (Thus, the sooner servicemembers receive their orders in advance of actual mobilization, the better.) Coverage normally ends at Release From Active Duty ("REFRAD").

*"Material effect" and "waiver" under the SCRA.* Many of the provisions of the SCRA require a showing by the servicemember that there is a "material effect" on his/her ability to respond or act as normally required due to the active duty service. The rights of the SCRA can be individually waived if done so in a separate writing. A servicemember should always be counseled to seek legal advice before any such waiver.

*Enforcement.* The U.S. Attorney General has (1) civil enforcement rights under the Act where there is a pattern or practice of violations or where there is a significant public interest, and (2) criminal enforcement rights in certain instances. The SCRA also provides for a private right of action generally allowing for all legal remedies available in any civil lawsuit and the right to seek attorney's fees.

The following provisions of the SCRA commonly apply to mobilizing reserve component servicemembers:

- **Default judgment protection.** A servicemember has the right (up to 90 days after REFRAD) to reopen a default judgment taken against him or her during active duty or within 60 days after active duty.
- **Stays of civil and administrative proceedings.** A servicemember may ask for a postponement of any court action (lawsuit) or administrative proceeding for not less than 90 days if he/she is on active duty or within 90 days after REFRAD. To exercise the right, the servicemember must send a 'letter or other communication' to the court/hearing officer asserting his/her military service materially affects his/her ability to appear. The servicemember must state when he/she would be available and must include a letter from his/her commander that confirms the servicemember's current military duty prevents making an appearance and that leave is not authorized.
- **Extensions on time limits for filing lawsuits (i.e., tolling of given statutes of limitations).** A servicemember may obtain extensions, without showing material effect, for everything except federal revenue matters.
- **Eviction proceeding stays.** The SCRA does not prohibit the eviction of an SM, but requires the landlord to obtain a court order (for rentals not exceeding \$2,975.54 monthly in January 2011, adjusted annually thereafter for inflation). The servicemember or servicemember's family member may seek a stay up to 90 days upon a showing of material effect.
- **Mortgage protections.** If a servicemember breaks his/her mortgage agreement on real property purchased before entry on active duty, the SCRA protects the servicemember by allowing foreclosure only by court order or waiver. This protection lasts during the time on active duty plus 9 months. (The additional 9 months of protections ceased being provided on December 31, 2012.) Alternatively, upon showing of material effect, a SM may seek a stay of foreclosure and/or equitable adjustment.
- **Residential lease termination rights.** A servicemember may terminate real property leases (residential, professional, business, agricultural, etc.) if the given lease was executed before entry on active duty, or if executed on active duty, the servicemember then receives Permanent Change of Station ("PCS") orders or orders to deploy for 90 days or more. The servicemember must provide written notice of termination and a copy of his/her orders.
- **Automobile lease termination rights.** A servicemember may terminate an automobile lease if the given lease was executed before entry on active duty and he/she then receives orders to active duty for 180 days or more, or if executed on active duty, the servicemember then receives PCS orders from inside to outside the Continental United States or from Alaska or Hawaii to anywhere else. He/she may also end the lease executed on active duty if he/she subsequently receives orders to deploy for 180 days or more. The servicemember must return the vehicle within 15 days of giving notice.

- **Cellular telephone contract termination rights.** An SM may terminate or suspend a cellular telephone contract if the SM receives orders to relocate for 90 days or more to a place where there is no cell phone coverage under the contract. The SM must give written or electronic notice of termination with a copy of the SM's orders. Family plans may be cancelled if the family moves with the SM.
- **Six Percent Interest Cap on Consumer Debt During Active Duty.** An SM may reduce interest on pre-active duty debts to 6 percent. For mortgages, the protection lasts one year beyond REFRAD. The protection lasts only during active duty itself for all other obligations (including, since August 15, 2008, student loans). The interest above 6% is forgiven, not deferred, and periodic payments must be lowered to account for such forgiven interest. To exercise the right, the servicemember must provide written notice and a copy of his orders no later than 180 days after REFRAD.

## FTC ACT

*Federal Trade Commission Act* (15 U.S.C. §§ 41-58)

The Federal Trade Commission ("FTC") Act provides as follows: "Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful." 15 U.S.C. § 45(a)(1).

Under this Act, the FTC is empowered, among other things, to (a) prevent unfair methods of competition, and unfair or deceptive acts or practices in or affecting commerce; (b) seek monetary redress and other relief for conduct injurious to consumers; (c) prescribe trade regulation rules defining with specificity acts or practices that are unfair or deceptive, and establishing requirements designed to prevent such acts or practices; (d) conduct investigations relating to the organization, business, practices, and management of entities engaged in commerce; and (e) make reports and legislative recommendations to Congress.

The Consumer Protection Branch of the Department of Justice's Civil Division ("CPB") is responsible for bringing civil and criminal actions brought under the FTC Act. These cases generally fall into three categories: 1) enforcement actions for civil penalties and injunctive relief based on violations of final orders issued by the FTC; 2) enforcement actions for civil penalties and injunctive relief based on violations of FTC trade regulation rules; and 3) prosecutions for criminal violations of the FTC Act, and for violations of district court orders obtained under the FTC Act.



## FDCPA

*Fair Debt Collection Practices Act* (15 U.S.C. § 1692-1692p).

The Fair Debt Collection Practices Act (“FDCPA”) prohibits third-party debt collectors from employing deceptive or abusive conduct in the collection of consumer debts incurred for personal, family, or household purposes. (The term “debt collector” generally does not cover creditors collecting their own debts). Such collectors may not, for example, contact debtors at odd hours, subject them to repeated telephone calls, threaten legal action that is not actually contemplated, or reveal to other persons the existence of debts. CPB enforces violations of the FDCPA, which are treated as unfair or deceptive acts or practices in violation of the FTC Act.

Among the Act’s provisions:

- A debt collector may not contact a consumer at inconvenient times or places, such as before 8 in the morning or after 9 at night, unless the consumer agrees to it. And collectors may not contact consumers at work if they’re told (orally or in writing) that the consumer is not allowed to get calls there.
- Once a collector receives written notice, they may not contact the consumer again except to tell the consumer there will be no further contact or to let the consumer know that they or the creditor intend to take a specific action, like filing a lawsuit.
- If an attorney represents a consumer with respect to a debt, the debt collector must contact the attorney, rather than the consumer. If the consumer does not have an attorney, a collector may contact other people – but only to find out the consumer’s address, home phone number, and place of employment. Collectors usually are prohibited from contacting third parties more than once. Other than to obtain location information, a debt collector generally is not permitted to discuss a consumer’s debt with anyone other than the consumer, their spouse, or their attorney.

Additionally, debt collectors may not do any of the following:

- use threats of violence or harm;
- publish a list of names of people who refuse to pay their debts;
- use obscene or profane language;
- repeatedly use the phone to annoy someone;
- falsely claim that they are attorneys or government representatives;
- falsely claim that a consumer has committed a crime;
- falsely represent that they operate or work for a credit reporting company;
- misrepresent the amount owed;
- indicate that papers they send are legal forms if they aren’t; or
- indicate that papers they send are not legal forms if they are.
- threaten a consumer with be arrest if he or she doesn’t pay the debt;
- threaten to seize, garnish, attach, or sell a consumer’s property or wages unless they are permitted by law to take the action and intend to do so;

- threaten legal action against the consumer, if doing so would be illegal or if they do not intend to take the action.
- give false credit information about the consumer to anyone, including a credit reporting company;
- send anything that looks like an official document from a court or government agency if it isn't;
- use a false company name;
- try to collect any interest, fee, or other charge on top of the amount owed unless the contract that created the debt – or state law – allows the charge.

## Telemarketing

### *Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. §§ 6101 et seq.)*

The Telemarketing and Consumer Fraud and Abuse Prevention Act directed the FTC to prescribe rules to prohibit abusive telemarketing practices. Violations of the ensuing Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, are treated as violations of the FTC Act.

CPB enforces the TSR, which contains an extensive array of consumer protection provisions, including the following:

The TSR established the National Do Not Call Registry, which telemarketers are required to search every 31 days and avoid calling any phone numbers that are on the registry. Calls from or on behalf of political organizations, charities and telephone surveyors are still permitted, as are calls from organizations with which a consumer has an established business relationship or to which a consumer has made an inquiry or submitted an application. A telemarketer who disregards the National Do Not Call Registry could be fined up to \$16,000 for each call.

Calling times are restricted to the hours between 8 a.m. and 9 p.m.

Telemarketers must promptly disclose the identity of the seller or charitable organization and that the call is a sales call or a charitable solicitation.

Telemarketers must disclose all material information about the goods or services they are offering and the terms of the sale and are prohibited from lying about any terms of their offer.

Before submitting a consumer’s billing information for payment, telemarketers must get their express informed consent to be charged — and to charge to a specific account.

Telemarketers must connect their call to a sales representative within two seconds of the consumer’s greeting and may not hang up on an unanswered call before 15 seconds or four rings. When the telemarketer doesn’t have a representative standing by, a recorded message must play to let the consumer know who is calling and the number they are calling from.

Telemarketers must transmit their telephone number and if possible, their name, to the consumer’s caller ID service.

Most businesses need written permission before they can call with prerecorded telemarketing messages, or robocalls. Businesses using robocalls have to disclose at the beginning of the message how consumers can stop future calls, and must provide an automated opt-out that can be activated by voice or keypress.

## Credit

The *Truth in Lending Act* (15 U.S.C. §§ 1601-1667f) requires all creditors who deal with consumers to make certain written disclosures concerning finance charges and related aspects of credit transactions (including disclosing an annual percentage rate). The Act also establishes a three-day right of rescission in certain transactions involving the establishment of a security interest in the consumer's residence (with certain exclusions, such as interests taken in connection with the purchase or initial construction of a dwelling) and establishes certain requirements for advertisers of credit terms.

The *Fair Credit Billing Act* (15 U.S.C. §§ 1666-1666j), amends the Truth in Lending Act to require prompt written acknowledgment of consumer billing complaints and investigation of billing errors by creditors. The amendment prohibits creditors from taking actions that adversely affect the consumer's credit standing until an investigation is completed, and affords other protection during disputes. The amendment also requires that creditors promptly post payments to the consumer's account, and either refund overpayments or credit them to the consumer's account.

The *Equal Credit Opportunity Act* (15 USC §§ 1691-1691f) requires that financial institutions and other firms engaged in the extension of credit make that credit equally available to all credit-worthy customers, and prohibits discrimination on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or good faith exercise of any rights under pertinent consumer credit statutes. The Act also requires creditors to provide applicants, upon request, with the reasons underlying decisions to deny credit. A violation of any requirement of the ECOA is treated as a violation of the FTC Act, and enforced in the same manner as if the violation had been a violation of an FTC trade regulation rule.

The *Fair Credit Reporting Act* (15 U.S.C. §§ 1681-1681x) requires consumer reporting agencies to adopt certain procedures relating to consumer credit, personnel, insurance, and other information to ensure the confidentiality, accuracy, reliability and proper verification of the information. Information in a consumer report cannot be provided to anyone who does not have a purpose specified in the Act, and companies that provide information to consumer reporting agencies also have specific legal obligations, including the duty to investigate disputed information. In addition, users of the information for credit, insurance, or employment purposes must notify the consumer when an adverse action is taken on the basis of such reports and must identify the company that provided the report, so that the accuracy and completeness of the report may be verified or contested by the consumer. Subsequent amendments to the Act give consumers the right to one free credit report a year from the credit reporting agencies, the ability to purchase for a reasonable fee a credit score along with information about how the credit score is calculated, and the ability place fraud alerts in their credit files. A violation of any requirement or prohibition imposed under the FCRA is treated as a violation of the FTC Act.

## Credit Repair

### *Credit Repair Organizations Act (15 U.S.C. § 1679 – 1679j)*

The Credit Repair Organizations Act (“CROA”) prohibits untrue or misleading representations and requires certain affirmative disclosures in the offering or sale of "credit repair" services. The Act bars "credit repair" companies from demanding advance payment, requires that "credit repair" contracts be in writing, and gives consumers certain contract cancellation rights.

The statute is aimed at schemes that promise to “repair” the credit of consumers by employing the verification provisions of the Fair Credit Reporting Act (FCRA) and that misrepresent the services a credit repair organization can provide. Common misrepresentations include claims that such organizations can remove negative items from credit reports due to alleged difficulties in the verification process. However, verification is usually automated, and most debts may remain on a consumer's report for seven years, and bankruptcies for ten years. Thus, claims that most consumers can get such items removed from credit reports frequently violate CROA.

CROA also prohibits “file segregation” schemes, which are advertised as a way of creating a new credit identity. File segregation operators advise the consumer to apply to the IRS for an Employer Identification Number (“EIN”), and to use the EIN in lieu of their Social Security Number when applying for credit in order to create a completely new credit file in which the old debts will not appear. The scheme essentially involves an attempt to hide one’s identity from creditors and both the person selling such a scheme and consumers who follow the scheme are violating the law. CROA bars any person from making or counseling any consumer to make any untrue or misleading statement whose intended effect is to alter the consumer’s identification to hide accurate credit information.

A credit repair offer is likely a scam if the offeror does any of the following:

- insists on payment before they do any work on the consumer’s behalf;
- tells the consumer not to contact the credit reporting companies directly;
- tells the consumer to dispute accurate information in their credit report;
- tells the consumer to give false information on an applications for credit or a loan; or
- does not explain the consumer’s legal rights when they tout their services.

## STATE LAW (TABLES OF STATE STATUTES)

### Lemon Laws and Unfair & Deceptive Acts and Practices Statutes.

<i>State Consumer Protection Laws Quick Reference I</i>		
STATE	LEMON LAW	UDAP STATUTE
Alabama	Ala. Code §§ 8-20A-1 to 8-20A-6	Ala. Code § 8-19-1 to 8-19-15
Alaska	Alaska Stat. §§ 45.45.300 to 45.45.360	Alaska Stat. § 45.50.471 to 45.50.561
Arizona	Ariz. Rev. Stat. Ann. § 44-1261 to 44-1267	Ariz. Rev. Stat. Ann. § 44-1521 to 44-1534
Arkansas	Ark. Code Ann. §§ 4-90-401 to 4-90-417	Ark. Code Ann. § 4-88-101 to 4-88-207
California	Cal. Civ. Code §§ 1793.1 to 1795.7, 1793.22 to 1793.26	Cal. Civ. Code § 1750 to 1785 Cal. Bus. & Prof. Code §§ 17200 to 17594
Colorado	Colo. Rev. Stat. §§ 42-10-101 to §§ 42-10-107, 12-6-120(1)(a), 12-6-122(2)	Colo. Rev. Stat. § 6-1-101 to 6-1-115
Connecticut	Conn. Gen. Stat. Ann. §§ 42-179 to 42-184	Conn. Gen. Stat. § 42-110a to 42-110q
Delaware	Del. Code Ann. tit. 6 §§ 5001 to 5009	Del. Code Ann. tit. 6 § 2511 to 2527, 2580 to 2584, & 2531 to 2536
District of Columbia	D.C. Code Ann. §§ 50-501 to 50-510	D.C. Code Ann. § 28-3901 to §§ 28-3913
Florida	Fla. Stat. Ann. § 681.10 to 681.118	Fla. Stat. Ann. § 501.201 to 501.213
Georgia	Ga. Code Ann. §§ 10-1-780 to 10-1-794	Ga. Code Ann. § 10-1-370 to 10-1-375, 10-1-390 to 10-1-407
Guam		5 Guam Code Ann. §§ 32101 to 32603
Hawaii	Haw. Rev. Stat. § 481I-1 to 481I-4	Haw. Rev. Stat. § 480-1 to 480-24 & 481A-1 to 481A-5

<b><i>State Consumer Protection Laws Quick Reference I</i></b>		
<b>STATE</b>	<b>LEMON LAW</b>	<b>UDAP STATUTE</b>
Idaho	Idaho Code §§ 48-901 to 48-913	Idaho Code § 48-601 to 48-619
Illinois	815 Ill. Comp. Stat. §§ 380/1 to 380/8	815 Ill. Comp. Stat. 505/1 to 505/12 & 510/1 to 510/7
Indiana	Ind. Code §§ 24-5-13-1 to 24-5-13-24	Ind. Code Ann. § 24-5-0.5-1 to 24-5-0.5-12
Iowa	Iowa Code Ann. §§ 322G.1 to 322G.15	Iowa Code Ann. § 714.16 to 714.16A
Kansas	Kan. Code Ann. §§ 50-645 to 50-646	Kan. Stat. Ann. § 50-623 to 50-640 & 50-675a to 50-679a
Kentucky	Ky. Rev. Stat. Ann. §§ 367.840 to 367.845; 367.860 to 387.870	Ky. Rev. Stat. § 367.110 to 367.990
Louisiana	La. Rev. Stat. Ann. §§ 51:1941 to 51:1948	La. Rev. Stat. Ann. § 51:1401 to 51:1420
Maine	Me. Rev. Stat. Ann. tit. 10 §§ 1161 to 1169	Me. Rev. Stat. Ann. tit. 5 § 205A to 214 & tit. 10 § 1211 to 1216
Maryland	Md. Code Ann. Com. Law §§ 14-1501 to 14-1504	Md. Code Ann. Com. Law §§ 13-101 to 13-501 & 14-101 to 14-3202
Massachusetts	Mass. Gen. Laws Ann. ch. 90 § 7N½	Mass. Gen. Laws Ann. ch. 93A §§ 1-11
Michigan	Mich. Comp. Laws §§ 257.1401 to 257.1410	Mich. Comp. Laws § 445.901 to 445.922
Minnesota	Minn. Stat. Ann. § 325F.665	Minn. Stat. Ann. §§ 8.31, 325D.43 to 325D.48, 325F.67, & 325F.68 to 325F.70 and others
Mississippi	Miss. Code Ann. §§ 63-17-151 to 63-17-165	Miss. Code Ann. § 75-24-1 to 75-24-27
Missouri	Mo. Stat. Ann. §§ 407.560 to	Mo. Rev. Stat. § 407.010 to 407.307

<b><i>State Consumer Protection Laws Quick Reference I</i></b>		
<b>STATE</b>	<b>LEMON LAW</b>	<b>UDAP STATUTE</b>
	407.579	
Montana	Mont. Code Ann. §§ 61-4-501 to 61-4-533	Mont. Code Ann. § 30-14-101 to 30-14-142
Nebraska	Neb. Rev. Stat. §§ 60-2701 to 60-2709	Neb. Rev. Stat. § 59-1601 to 59-1623 & 87-301 to 87-306
Nevada	Nev. Rev. Stat. § 597.600 to 597.680	Nev. Rev. Stat. §§ 41.600 & 598.0903 to 598.0999
New Hampshire	N.H. Rev. Stat. Ann. §§ 357-D:1 to 357-D:12	N.H. Rev. Stat. Ann. § 358-A:1 to 358-A:13
New Jersey	N.J. Stat. Ann. §§ 56:12-29 to 56:12-49	N.J. Stat. Ann. § 56:8-1 to 56:8-91
New Mexico	N.M. Stat. Ann. §§ 57-16A-1 to 57-16A-9, 56-16-4, 56-16-13	N.M. Stat. Ann. § 57-12-1 to 57-12-22
New York	N.Y. Gen. Bus. Law § 198-a; N.Y. Veh. & Traf. Law § 417-a	N.Y. Exec. Law § 63(12); N.Y. Gen. Bus. Law §§ 349 & 350
North Carolina	N.C. Gen. Stat. §§ 20-351 to 20-351.10	N.C. Gen. Stat. § 75-1.1 to 75-35
North Dakota	N.D. Cent. Code §§ 51-07-16 to 51-07-22	N.D. Cent. Code §§ 51-15-01 to 51-15-11
Ohio	Ohio Rev. Code Ann. §§ 1345.71 to 1345.78	Ohio Rev. Code Ann. §§ 1345.01 to 1345.13 & 4165.01 to 4165.04
Oklahoma	Okla. Stat. Ann. tit. 15, § 901	Okla. Stat. Ann. tit. 15 § 751 to 763 & tit. 78 §§ 51 to 55
Oregon	Or. Rev. Stat. §§ 646.315 to 646.375	Or. Rev. Stat. § 646.605 to 646.656
Pennsylvania	73 Pa. Stat. Ann. § 1951 to 1963	Pa. Stat. Ann. Tit. 73 §§ 201-1 to 201-9.3



<b><i>State Consumer Protection Laws Quick Reference I</i></b>		
<b>STATE</b>	<b>LEMON LAW</b>	<b>UDAP STATUTE</b>
Puerto Rico		P.R. Laws Ann. tit.3 §§ 341 to 341w & tit. 10 §§ 257 to 273
Rhode Island	R.I. Gen. Laws §§ 31-5.2-1 to 31-5.2-12	R.I. Gen. Laws § 6-13.1-1 to 6-13.1-27
South Carolina	S.C. Code Ann. §§ 56-28-10 to 56-28-110, 56-15-40(1), 56-15-110	S.C. Code Ann. § 39-5-10 to 39-5-160
South Dakota	S.D. Codified Laws Ann §§ 32-6D-1 to 32-6D-11	S.D. Codified Laws Ann. § 37-24-1 to 37-24-35
Tennessee	Tenn. Code Ann. §§ 55-24-201 to 55-24-212	Tenn. Code Ann. § 47-18-101 to 47-18-125
Texas	Tex. Occ. Code Ann. §§ 2301.601 to 2301.613	Tex. Bus. & Com. Code Ann. §§ 17.41 to 17.63
Utah	Utah Code Ann. §§ 13-20-1 to 13-20-7, 41-3-406 to 41-3-414	Utah Code Ann. §§ 13-2-1 to 13-2-8, 13-5-1 to 13-5-18, & 13-11-1 to 13-11-23, & 13.11a-1 to 13.11a-5
Vermont	Vt. Stat. Ann. tit. 9 §§ 4170 to 4181	Vt. Stat. Ann. tit. 9 § 2451 to 2480g
Virginia	Va. Code §§ 59.1-207.9 to 207.16	Va. Code Ann. § 59.1-196 to 59.1-207
Virgin Islands		V.I. Code Ann. Tit. 12A §§ 101-123 & 180-185
Washington	Wash. Rev. Code §§ 19.118.005 to 19.118.904	Wash. Rev. Code Ann. §§ 19.86.010 to 19.86.920
West Virginia	W. Va. Code §§ 46A-6A-1 to 46-6A-9	W.Va. Code §§ 46A-6-101 to 46A-6-110
Wisconsin	Wis. Stat. Ann. § 218.0171. 218.0163(2)	Wis. Stat. Ann. §§ 100.18 & 100.20 to 100.264
Wyoming	Wyo. Stat. Ann. § 40-17-101	Wyo Stat. Ann. §§ 40-12-101 to 40-12-114

**Lemon Buyback Laws and Salvage Vehicle Laws.**

<b><i>State Consumer Protection Laws Quick Reference II</i></b>		
<b>STATE</b>	<b>RESALE OF LEMON STATUTE  (LEMON LAW BUYBACK / LEMON LAUNDERING) SALVAGE VEHICLE STATUTE)</b>	<b>UDAP STATUTE</b>
Alabama	Ala. Code §§ 8-20A-3, 8-20A-4, 8-20A-5	Ala. Code § 32-8-87
Alaska	Alaska Stat. § 45.45.335	Alaska Stat. § 28-10-211
Arizona	Ariz. Rev. Stat. § 44-1266	Ariz. Rev. Stat. Ann. §§ 28-2091, 28-2095
Arkansas	Ark. Code Ann. § 4-90-412	Ark. Code Ann. § 27-14-2301 to 2307
California	Cal. Civ. Code §§ 1793.23, .24, .26, 11713.12 12	Cal. Veh. Code §§ 544, 5505, 6050, 11515-11515.2
Colorado	Colo. Rev. Stat. § 6-1-708(1)(b), 6-	Col. Rev. Stat. §§ 42-6-102, 42-6-136, 42-2 206
Connecticut	Conn. Gen. Stat. Ann. § 42-179(g), 42-179(i)	Conn. Gen. Stat. § 14-16c, 14-103a
Delaware	NA	Del. Code Ann. tit. 21 §§ 2512, 6716
District of Columbia	D.C. Code § 50-502(g)	D.C. Code Ann. § 50-505
Florida	Fla. Stat. Ann. §§ 681.111; 681.112; 681.114(2), 319.14 (West)	Fla. Stat. Ann. §§ 319.14, 319.30 (West)
Georgia	Ga. Code Ann. §§ 10-1-790	Ga. Code Ann. §§ 40-3-2, 40-3-36, 40-3-37
Hawaii	Haw. Rev. Stat. §§ 481I-3(I) , 481I-3(k), 481J	Haw. Rev. Stat. § 286-48

## ***State Consumer Protection Laws Quick Reference II***

<b>STATE</b>	<b>RESALE OF LEMON STATUTE  (LEMON LAW BUYBACK / LEMON LAUNDERING) SALVAGE VEHICLE STATUTE)</b>	<b>UDAP STATUTE</b>
Idaho	Idaho Code § 48-905	Idaho Code § 49-524 & 525
Indiana	Ind. Code Ann. §§ 24-5-13.5-1 to -24-5-13.5-14	Ind. Code Ann. §§ 9-22-3-3 to 9-22-3-5, 9-22-3-30
Iowa	Iowa Code Ann. § 322G.11 & .12	Iowa Code Ann. §§ 321.52, 321-69
Kansas	Kan. Stat. Ann. § 50-645, 50-659	Kan. Stat. Ann. §§ 8-135; 8-197 to 199
Kentucky	No specific lemon resale statute	Ky. Rev. Stat. § 186A.520, 186A.530
Louisiana	La. Rev. Stat. Ann. § 51:1945.1 & 1946	La. Rev. Stat. Ann. §§ 32:702, 32:706, 32:707, 32.707.3
Maine	Me. Rev. Stat. Ann. tit. 10 §§ 1147, 1163(7) & (8), 1167, 1168, 1174(E), 1475(4), tit. 29-A, § 670	Me. Rev. Stat. Ann. tit. 29-A, §§ 602, 654, 667
Maryland	Md. Code Ann. Com. Law. § 14-1502	Md. Code Ann. Com. Law §§ 11-152, 13-506, 13-507
Massachusetts	Mass. Gen. Laws ch. 90 § 7N 1/2(5)	Mass. Gen. Laws ch. 90D, §§ 1, 20B - 20F
Michigan	Mich. Comp. Laws §§ 257.4c, 257.235(5)	Mich. Comp. Laws Ann. § 257.217c
Minnesota	Minn. Stat. Ann. §§ 325F.655(13); 325F.665(5); 325F.665(9)	Minn. Stat. Ann. §§ 168A.01, 168A.151, 325F.664 to 325F.6644
Mississippi	No specific lemon resale statute	Miss. Code Ann. §§ 63-21-33, 63-21-39
Missouri	No specific lemon resale statute	Mo. Rev. Stat. §§ 301.010, 301.020, 301.190, 301.227, 301.573

***State Consumer Protection Laws Quick Reference II***

<b>STATE</b>	<b>RESALE OF LEMON STATUTE  (LEMON LAW BUYBACK / LEMON LAUNDERING) SALVAGE VEHICLE STATUTE)</b>	<b>UDAP STATUTE</b>
Montana	Mont. Code Ann. § 61-4-525	Mont. Code Ann. §§ 61-3-210 to 212
Nebraska	Neb. Rev. Stat. §§ 60-129, 6-130, 60-174	Neb. Rev. Stat. § 60-129, 60-130, 60-171 to 177
Nevada	Nev. Rev. Stat. §§ 597.620, 597.682 to .688	Nev. Rev. Stat. §§ 482.098, 482.245, 487.160, 487.710 to .890
New Hampshire	N.H. Rev. Stat. Ann. § 357-D:12	N.H. Rev. Stat. Ann. § 261.22
New Jersey	N.J. Stat. Ann. §§ 56:8-2, 56:12-39, 39:10-9.3	N.J. Stat. Ann. § 39-10-32 N.J. Admin Code 13:21-22.7
New Mexico	N.M. Stat. Ann. § 57-16A-7	N.M. Stat. Ann. § 66-1-4.12, 66-1-4.16, 66-3-4, 66-3-10.1
New York	N.Y. Veh. & Traf. Law § 417-a(2), 417-2(4)	N.Y. Veh. & Traf. Law §§ 429, 430
North Carolina	N.C. Gen. Stat. § 20-351.3(d)	N.C. Gen. Stat. §§ 20-4.01, 20-71.3, 20-71.4, 20-109.1
North Dakota	N.D. Cent. Code § 51-07-22	N.D. Gen. Stat. § 39-05-20.1, 39-05-20.2
Ohio	Ohio Rev. Code Ann. § 1345.76(A), (B)(C)	Ohio Rev. Code Ann. §§ 4505.11 & 4505.181
Oklahoma	No specific lemon resale statute	Okla. Stat. Ann. tit. 47 § 591.8, 1111
Oregon	Or. Rev. Stat. § 646A.325, 646A.405	Or. Rev. Stat. §§ 803.015, 801.405, 801.012, 819.014 to 819.016
Pennsylvania	Pa. Stat. Ann. tit. 73 §§ 1960(a) and (b), 1961, 1962	Pa. Stat. Ann. tit. 75 §§ 102, 1106, 1161, 1165

***State Consumer Protection Laws Quick Reference II***

<b>STATE</b>	<b>RESALE OF LEMON STATUTE  (LEMON LAW BUYBACK / LEMON LAUNDERING) SALVAGE VEHICLE STATUTE)</b>	<b>UDAP STATUTE</b>
Rhode Island	R.I. Gen. Laws § 31-5.2-9; -10, & -11	R.I. Gen. Laws § 31-46-4
South Carolina	S.C. Code Ann. § 56-28-100, 56-28- 110	S.C. Code Ann. § 56-19-480 (Law. Co-op)
South Dakota	S.D. Codified Laws Ann § 32-6D-9, 32-6D-10	S.D. Codified Laws Ann. §§ 32-3-12, 32-3-51.5, 32-3-51.6, 32-3-53, 32-3- 53.2 (as amended by 2005 S.D. Sess. Laws 155)
Tennessee	No specific lemon resale statute	Tenn. Code Ann. §§ 55-3-120, 55-3-20 211, 55-3-212
Texas	Tex. Occ. Code Ann. §2301.610	Tex. Transp. Code Ann. §§ 501.091 to 501.095, 501.097, 501.098, 501.100 to 501.103
Utah	Utah Code Ann. §§ 41-3-406 to - 414, 41-1a-522	Utah Code Ann. §§ 41-1a-1001 to 1008
Vermont	Vt. Stat. Ann. tit. 9 §§ 4179, 4181	Vt. Stat. Ann. tit. 23 §§ 2001, 2091, 2093
Virginia	Va. Code §§ 59.1-207.15, 59.1- 207.16:1, 18.2-11	Va. Code §§ 46.2-1600 to 1608
Washington	Wash. Rev. Code § 19.118.061	Wash. Rev. Code Ann. § 42.04.524, 46.12.560, 46.55.230
West Virginia	W. Va. Code § 46A-6A-7 & -9	W.Va. Code Ann. § 17A-4-10
Wisconsin	Wis. Stat. Ann. § 218.015(2)(d), 218.0170(2)(d), 342.10, 342.15.1	Wis. Stat. Ann. §§ 342.01, 342.07, 342.10, 342.065 (see also Wis. Admin. Code Trans. 139.04)
Wyoming	No specific lemon law resale statute	Wyo Stat. §§ 31-2-103 to 109

**Telemarketing and Debt Collection Statutes.**

<b><i>State Consumer Protection Laws Quick Reference III</i></b>		
<b>STATE</b>	<b>TELEMARKETING</b>	<b>DEBT COLLECTION STATUTES</b>
Alabama	Ala. Code §§ 8-19A-1 to 8-19A-24 (Telemarketing); §§ 8-19C-1 to 8-19C-12 (Do-Not Call List)	Ala. Code § 40-12-80
Alaska	Alaska Stat. §§ 45.63.010 to 45.63.100, 45.50.475	Alaska Stat. §§ 8.24.041 to 8.24.380, 45.50.471 to 45.50.561
Arizona	Ariz. Rev. Stat. Ann. §§ 44-1271 to 44-1282	Ariz. Rev. Stat. Ann. §§ 32-1001 to 32-1057
Arkansas	Ark. Stat. Ann. §§ 4-99-10 to 4-99-408	Ark. Stat. Ann. §§ 17-24-101 to 17-24-512
California	Cal. Bus. & Prof. Code §§ 17511 to 17513, 17591 to 17595	Cal. Civ. Code §§ 1788 to 1788.33, 1812.700 to 1812.702, Cal Family
Colorado	Colo. Rev. Stat. §§ 6-1-301 to 6-1-304, 6-1-901 to 6-1-908, 4 Colo. Code Regs § 723-22	Colo. Rev. Stat. §§ 5-1-101 to 5-12-1812.700 to 1812.702, Cal Family Code 5610-5616
Connecticut	Conn. Gen. Stat. §§ 42-284 to 42-289	Conn. Gen. Stat. §§ 36a-645 to 647, 36a-800 to 36a-810 ,
Delaware	Del Code Ann. tit. 6 § 2501A-2509A	Del. Code Ann. tit. 30 § 2301(a)(12)
District of Columbia	D.C. Code § 22-3226.01 to 22-3226.15	D.C. Code Ann. §§ 22-3401 to 22-3403, 28-3814 to 28-3816, 28-3901 to 28-3909
Florida	Fla. Stat. Ann. §§ 501.059, 501.601 to 501.626	Fla. Stat. Ann. §§ 559.55 to 559.785
Georgia	Ga. Code Ann. §§ 10-5B-1 to 105B-8	Ga. Code Ann. §§ 7-3-1 to 7-3-29
Hawaii	Haw. Rev. Stat. §§ 481P-1 to 481P-8	Haw. Rev. Stat. §§ 443B-1 to 443B-21, 480D-1 to 480D-5
Idaho	Idaho Code §§ 48-1001 to 48-1108	Idaho Code §§ 26-2222 to 26-2251

### State Consumer Protection Laws Quick Reference III

STATE	TELEMARKETING	DEBT COLLECTION STATUTES
Illinois	815 Ill. Comp. Stat. Ann. §§ 413/1 to 413/27, 402/1 to 402/99, (Do-Not Call List), 505/2P.1	225 Ill. Comp. Stat. 425/1 to 425/9.7
Indiana	Ind. Code Ann. §§ 24-5-12-1 to 24-5-12-25, 24-4.7-1-1 to 24.4.7-5-6	Ind. Code Ann. §§ 25-11-1-1 to 25-11-13, 24-4.5-5-107
Iowa	Iowa Code §714.8(15)	Iowa Code Ann. §§ 537.7101 to 537.7103
Kansas	Kan. Stat. Ann. §§ 50-670 to 50.679a	Kan. Stat. Ann. § 16a-5-107
Kentucky	Ky. Rev. Stat. §§ 367.461 to 367.46999	None, <i>but see</i> Ky. Rev. Stat. Ann. §24A-240 (restrictions on small claims court suits by creditors and debt collectors)
Louisiana	La. Rev. Stat. Ann. §§ 45:821 to 45:833, 45:844.11 to 45:844.15	La. Rev. Stat. Ann. §§ 9:3552 and 9:3562, <i>see also</i> 9:3534
Maine	Me. Rev. Stat. Ann. tit. 10 §§ 1498, 1499, 1499A	Me. Rev. Stat. Ann. tit. 32 §§11,001 to 11054, 9A §§ 5-107, 5-116, 5-117, 5-201, 19A § 2109
Maryland	Md. Comm. Law Code § 14-2201 to 14-2205, 14-3201 to 14-3202, 8-204 to 8-205	Md. Ann. Code Bus. Reg. §§ 7-101 to 7-502, Md. Comm. Law Code §§14-201 to 14-204
Massachusetts	Mass. Gen. Laws Ann. ch. 159, 19E	Mass. Gen. Laws Ann. ch. 93 §§ 24 to 28, 49
Michigan	Mich. Comp. Laws §§ 445.111 to 445.111e, 445.113, 445.116	Mich. Comp. Laws Ann. §§339.901 to 339.920 & 445.251 to 445.258
Minnesota	Minn. Stat. 325E.26 to 325E.31, 325E.395, 325E.311 to 325E.316 (Telephone Solicitation, expires on December 31, 2012), 325G.12 to 325G.14	Minn. Stat. Ann. §§ 332.31 to 332.45 and Minn. Stat. §§ 325F.91 – 325F.92 (restricting debt collection activities of rent-to-own companies)
Mississippi	Miss. Code Ann. §§ 77-3-601 to 77-3-619, (77-3-701 to 77-3-737 was scheduled for sunset on July 1, 2006)	None, <i>but see</i> Miss. Code Ann. §97-9-1 (criminal offense to simulate legal process to obtain collection of a debt)
Missouri	Mo. Rev. Stat. §§ 407.1070 to 407.1090 (Telemarketing), §§ 407.1095 to 407.1110 (Do-Not Call List)	Mo. Rev. Stat. §§ 425.300 and 287.140(13)

### ***State Consumer Protection Laws Quick Reference III***

<b>STATE</b>	<b>TELEMARKETING</b>	<b>DEBT COLLECTION STATUTES</b>
Montana	Mont. Code Ann. §§ 30-14-1401 to 30-14-1406, § 30-14-501 to 30-14-508	None, <i>but see</i> Mont. Code Ann. §§3-1-602, 30-19-102 to 30-19-116 (rent-to-own regulations), 31-1-704 (payday lending regulations)
Nebraska	Neb. Rev. Stat. §§ 86-212 to 86-235, 86-236 to 86-257	Neb. Rev. Stat. §§ 45-601 to 45-623, 45-1043 to 45-1058
Nevada	Nev. Rev. Stat. §§ 597.814, 598.0918, 228.500 to 228.640, 599B005-599B.300	Nev. Rev. Stat. §§ 649.005 to 649.435
New Hampshire	N.H. Rev. Stat. Ann. §§ 359-E:1 to 359-E:11	N.H. Rev. Stat. Ann. §§ 358-C:1 to 358-C:4
New Jersey	N.J. Stat. Ann. §§ 56:8.119 to 56:8-135, 48:17-25; N.J. Admin. Code §13:45A-1.1	N.J. Stat. Ann. §§ 45:18-1 to 45:18-6.1
New Mexico	N.M. Stat. Ann. §§ 57-12-22 to 57-12-24	N.M. Stat. Ann. §§ 61-18A-1 to 61-18A-33
New York	N.Y. Gen. Bus. Law § 399-p, 399- pp, 399-z; N.Y. Pers. Prop. Law §§440 to 448, N.Y. Pub. Serv. Law §92-d	N.Y. Gen. Bus. Law §§ 600 to 604- b
North Carolina	N.C. Gen. Stat. §§ 66-260 to 66-266, 75-100 to 75-105	N.C. Gen. Stat. §§ 58-70-15, 58-70-90 to 58-70-155, 75-50 to 75-56 (Prohibited Acts by Debt Collectors)
North Dakota	N.D. Cent. Code §§ 51-18-01 to 51-18-22	N.D. Cent. Code §§ 13-05-01 to 13-05-10
Ohio	Ohio Rev. Code Ann. 4719.01 to 4719.99	None, <i>but see</i> ORC Ann. § 1319.12
Oklahoma	Okla. Stat. Ann. Tit. 15 §§ 775A.1 to 775A.5	Okla. Stat. tit. 14A, § 5-107, <i>see also</i> tit. 12, § 1751 (prohibiting collection agency from bringing action in small claims court)
Oregon	Or. Rev. Stat. §§ 646.551 to 646.578	Or. Rev. Stat. §§ 646.639 to 646.643, 697.005 to 697.105
Pennsylvania	Pa. Stat. §§ 2241 to 2249	Pa. Cons. Stat. Ann. 18 § 7311 & 73 § 2270.1 to 2270.6



<b>State Consumer Protection Laws Quick Reference III</b>		
<b>STATE</b>	<b>TELEMARKETING</b>	<b>DEBT COLLECTION STATUTES</b>
Rhode Island	R.I. Gen. Laws §§ 5-61-1 to 5-61-6	R.I. Gen. Laws §§ 19-14.9-1 to 19-4.9-14
South Carolina	S.C. Code Ann. §§ 16-17-445 to 16-17-446	S.C. Code Ann. § 37-5-108
South Dakota	S.D. Codified Laws Ann §§ 37-30A-1 <i>et. seq.</i> , 49-31-101 to 49-31-108 (Do-Not Call Register)	None
Tennessee	Tenn. Code Ann. §§ 47-18-1501 to 47-18-1527, 65-4-401 to 65-4-408 (Telephone Solicitation)	Tenn. Code Ann. §§ 62-20-101 to 62-20-127
Texas	Tex. Bus. & Com. Code Ann. §§44.001 to 44.253 <i>et seq.</i> , 38.001 to 38.305, 55.121 to 55.138, 16 Tex. Admin. Code § 26.125	Tex. Fin. Code Ann. §§ 392.001 to 392.404, 396.001 to 396.353
Utah	Utah Code Ann. §§ 13-26-1 to 13-26-11, 13-25a-101 to 13-25-111	Utah Code Ann. §§12-1-1 to 12-1-11, 70C-&-105 to 106
Vermont	9 Vt Stat. Ann. § 2464 to 2464d	Vt. Stat. Ann. tit. 9 §§ 2451a to 2461
Virginia	Va. Code §§ 59.1-21.1 to 59.1-21.7, 59.1-510 to 59.1-518	Va. Code § 18.2-213
Washington	Wash. Rev. Code §§ 19.158.010 to 19.158.901	Wash. Rev. Code Ann. §§19.16.100 to 19.16.950
West Virginia	W. Va. Code § 46A-6F-101 to 46A-6F-703	W.Va. Code Ann. §§ 47-16-1 to 47-16-5, 46a-2-122 to 46a-2-129a, 48-1-307
Wisconsin	Wisc. Stat. §§ 423.201 to 423.205, 100-52	Wis. Stat. Ann. §§ 218.04
Wyoming	Wyo. Stat. Ann. §§ 40-12-301 to 40-12-305	Wyo. Stat. §§ 33-11-101 to 33-11-116, 40-14-507

### States Statutes That Address the Military Lending Act (10 U.S.C. § 987)

#### Statutes Expressly Granting Enforcement Authority

##### **Hawaii**

H.R.S. § 481B-16(a): The director of commerce and consumer affairs may enforce Title 10 United States Code section 987, (section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law No. 109-364), and federal regulations

promulgated thereunder, including but not limited to Title 32 Code of Federal Regulations Part 232.

Became effective July 6, 2012

### **Iowa**

IOWA CODE § 535.18: The superintendent of banking and the superintendent of credit unions, as applicable, shall have the authority to enforce the consumer protection provisions of 10 U.S.C. § 987 concerning limitations on terms of consumer credit extended to servicemembers and their dependents.

### **Violation of MLA is a Violation of State Law**

### **California**

CAL. FIN. CODE § 23038(a) [California Deferred Deposit Transaction Law]: Any person who violates any provision of Section 670 of the John Warner National Defense Authorization Act of Fiscal Year 2007 (Public Law 109-364) or any provision of Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, violates this division.

CAL. FIN. CODE § 22345(a) [California Finance Lenders Law]: Any person who violates any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or any provision of Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, violates this chapter.

### **Nevada**

NEV. REV. STAT. § 604A.442; § 675.292: Notwithstanding any other provision of law, a violation of any provision of section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of this chapter.

### **Illinois**

815 ILL. COMP. STAT. 122/2-51: Violation of Federal law constitutes a violation of this Act with respect to practices concerning members of the military and their dependents. Notwithstanding any other provision of law, a violation of any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of this Act.

### **Montana**

MONT. CODE ANNO., § 31-1-829(1); § 31-1-729(1) [Title Loan Act & Montana Deferred Deposit Loan Act]: A violation of any applicable provision of the [ ] John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation promulgated under those acts is also a violation of this part.

## Entities/Transactions Must Comply with MLA

### **Connecticut**

CONN. GEN. STAT. § 36a-759a: Each financial institution shall comply with the applicable provisions of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, and 32 CFR 232, as amended from time to time, that limit the interest rate that may be charged on consumer credit to members of the armed services and their dependents. Whenever it appears that any financial institution has violated, is violating or is about to violate any of such applicable provisions, the commissioner may take action against such financial institution in accordance with sections 36a-50 and 36a-52.

For purposes of this section “financial institution” means any Connecticut bank, Connecticut credit union or other person whose lending activities in this state are subject to 32 CFR 232, as amended from time to time.

### **Texas**

TEX. FINANCE CODE § 393.625: An extension of consumer credit described by Section 393.602(a) that is obtained by a credit access business for a member of the United States military or a dependent of the United States military or that the business assisted that person in obtaining must comply with 10 U.S.C. Section 987 and any regulations adopted under that law, to the extent applicable.

TEX. FINANCE CODE § 393.201(c): Form and Terms of Contract—A contract with a credit access business for performances of services [deferred presentment transaction or a motor vehicle title loan] must: (4) contain a statement that a credit access business must comply, to the extent applicable, with 10 U.S.C. Section 987 and any regulations adopted under that law with respect to an extension of consumer credit described by Section 393.602(a).

## State Law/Regulations Preempted by MLA

### **Kansas**

K.S.A. § 16a-2-405: Payday loans to military borrowers; restrictions—Kansas Comment 2010: The federal law and implementing regulations preempt state law. See, for example, Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Talent Amendment), 10 U.S.C.A. § 987, regulations that implement section 670 from the Department of Defense, found at 32 C.F.R. Part 232, and the Servicemembers Civil Relief Act, 50 U.S.C.A. § 501 et seq.

K.S.A. § 16a-6-117. Rules and regulations; truth in lending: The administrator shall adopt rules and regulations necessary to carry out the provisions and terms of the uniform consumer credit code which are consistent with or no less restrictive than...section 670 of the John Warner national defense authorization act for fiscal year 2007, 10 U.S.C. § 987 et seq. and 32 C.F.R. § 232 et seq.

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The Consumer Protection Branch (“CPB”) of the Civil Division of the United States Department of Justice is a litigating office that brings civil and criminal enforcement actions in consumer-protection related areas.

CPB is responsible for litigation arising under a variety of federal statutes administered by federal regulatory agencies that protect public health and safety, and under general federal statutes that set forth penalties for activity that may harm consumers. The Branch’s broad mission is to safeguard consumers and to represent government agencies that serve consumers. CPB’s affirmative litigation involves areas such as adulterated and misbranded food, drugs, and devices; hazardous and unsafe consumer products; unfair and deceptive advertising and franchising practices; unfair consumer credit and debt collection practices; deceptive and fraudulent internet and mail order sales; all types of financial fraud; and unlawful practices that target vulnerable consumer populations.

The Branch receives case referrals from a number of agencies, including the Federal Trade Commission (“FTC”), the Food and Drug Administration (“FDA”), and the Consumer Product Safety Commission (“CPSC”). CPB also generates its own cases and becomes involved in consumer-related cases in which United States Attorneys’ Offices seek assistance, often acting as co-counsel with Assistant United States Attorneys. The Branch consists of approximately 40 attorneys litigating criminal and civil cases nationwide. Its work is aided by substantial litigation support resources, including a cadre of experienced paralegals and data management specialists.

CPB attorneys are experienced in litigating complex criminal and civil cases and have done so in federal judicial districts throughout the United States. Our attorneys have expertise in a wide variety of substantive areas, including the laws governing food, drugs and devices, consumer protection, and product safety. The Branch is responsible for enforcing such landmark public interest statutes as the Food, Drug, and Cosmetic Act, the Federal Trade Commission Act, and the Consumer Product Safety Act. And CPB attorneys also regularly prosecute criminal violations of the mail and wire fraud statutes and other provisions of the criminal code.

The Consumer Protection Branch’s criminal enforcement efforts have made impacts in reducing the vulnerability of consumers to fraud and abuse. Notable areas of success have included prosecutions of:

- fraudulent foreclosure rescue schemes
- the diversion and counterfeiting of prescription drugs;
- off-label promotion of prescription drugs;

- fraudulent and deceptive marketing and sale of dietary supplements;
- odometer tampering; and
- illegal distribution of fireworks and explosives.

Another realm in which CPB has been particularly successful in protecting consumers is in the area of business opportunities. The field of business opportunities, which offer consumers purported opportunities to run their own businesses and make substantial amounts of money, has been rife with fraud. Working with the FTC, Branch attorneys have brought countless civil actions against purveyors of fraudulent business opportunities, obtaining civil penalties and injunctive relief.

In recent years, CPB has amped up the pressure on fraudsters, bringing numerous criminal prosecutions against individuals engaged in business opportunity fraud. Working with the Postal Inspection Service, the Branch has devoted substantial resources to prosecuting “bizopp” fraud, particularly in southern Florida, where this industry has been concentrated. Prosecutions in this area have included charges involving mail and wire fraud, conspiracy, and, where a previous enforcement effort resulted in a judicial or administrative order governing a target’s conduct, criminal contempt. The prosecutions involved dozens of different business opportunities that, combined, victimized thousands of consumers of millions of dollars.

In addition to business opportunity fraud the Consumer Protection Branch has brought a number of civil and criminal enforcement actions related to consumer credit and debt matters as well as unlawful telemarketing practices. CPB attorneys are well-versed and highly experienced in the various consumer protection statutes and regulations that govern consumer credit and loans, debt collection, privacy, and identity. The enforcement of these laws, which largely fall under the FTC regulatory umbrella, make up a substantial portion of the Branch’s work and have a significant impact on the lives and livelihoods of consumers – including civilians and military alike.

Among the various statutes the Consumer Protection Branch enforces are:

- *The Telemarketing and Consumer Fraud and Abuse Prevention Act;*
- *The Telemarketing Sales Rule;*
- *The Truth in Lending Act;*
- *The Fair Credit Billing Act;*
- *The Equal Credit Opportunity Act;*
- *The Fair Credit Reporting Act;*
- *The Credit Repair Organizations Act;* and
- *The Fair Debt Collection Practices Act*

The Consumer Protection Branch stands ready, willing, and able to bring its expertise and resources to bear in the protection of servicemembers from fraudulent and abusive practices – particularly in the areas of credit, debt, privacy, and identity. Consumer Protection attorneys have the experience, resources, and knowhow to spearhead enforcement in these areas and, together with the FTC, the United States Attorneys’

Offices, and law enforcement partners throughout the nation, help ensure that members of our military are not victimized by unscrupulous or unlawful practices in their financial affairs and home lives.

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## **Consumer Financial Protection Bureau**

In July, 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which created the Consumer Financial Protection Bureau (the CFPB). The CFPB supervises financial institutions for compliance with over 19 federal consumer protection statutes as they pertain to financial products and services. The statutes range from the Fair Debt Collection Practices Act, to the Real Estate Settlement Procedures Act, to the Equal Credit Opportunity Act. In addition, the CFPB recently received authority to enforce the Military Lending Act.

- For a list of regulations administered and enforced by the CFPB, including a link to the electronic code of each regulation, see <http://www.consumerfinance.gov/regulations/>.
- If you have questions about the enforcement of one of these statutes, contact: Khalid Hargrove, Enforcement Attorney: [Khalid.hargrove@cfpb.gov](mailto:Khalid.hargrove@cfpb.gov) at 202-435-7817.

In addition to supervising and enforcing a wide-range of consumer protection statutes, the CFPB also accepts complaints on a variety of financial products, including: credit cards, mortgages, bank accounts, consumer loans, student loans, and credit reporting.

- To submit a complaint to the CFPB about a consumer financial product, please go to: <http://www.consumerfinance.gov/complaint/>.

Finally, the Dodd-Frank Act created a special office to address the financial concerns of Servicemembers, veterans, and their families. The Office of Servicemember Affairs is tasked with monitoring complaints and coordinating with other federal and state agencies in order to address the unique challenges faced by our community.

- If you have questions or concerns you would like to discuss with members of the Office of Servicemember Affairs, please email us at: [military@cfpb.gov](mailto:military@cfpb.gov)

# **Federal Trade Commission**

## **Bureau of Consumer Protection**

The FTC's Bureau of Consumer Protection ("BCP") stops unfair, deceptive or fraudulent practices in the marketplace. BCP conducts investigations, sues companies and people that violate the law, develops rules to ensure a vibrant marketplace, and educates consumers and businesses about their rights and responsibilities. The office collects complaints about hundreds of issues from data security and deceptive advertising to identity theft and Do Not Call violations, and make them available to law enforcement agencies worldwide for follow-up.

BCP's experienced and motivated staff is nimble, using 21st century tools to anticipate – and respond to – changes in the marketplace. As we approach our 100th anniversary, BCP is proud to be the nation's cop on the consumer beat, prepared to meet current challenges – and those around the corner – with expertise and excitement.

BCP has seven divisions:

1. Advertising Practices protects consumers by enforcing the nation's truth-in-advertising laws, with particular emphasis on claims for food, over-the-counter drugs, dietary supplements, alcohol and tobacco, and on conduct related to high-tech products and the Internet; and by enforcing the Children's Online Privacy Protection Act.
2. Consumer and Business Education plans, develops, and implements creative national campaigns in plain English and Spanish to alert consumers to their rights and to explain the science of compliance to industry.
3. Enforcement litigates civil contempt and civil penalty actions to enforce all FTC federal court injunctions and administrative orders that address consumer protection issues, including advertising and financial practices, data security, high-tech fraud, and telemarketing and other scams. The Division also coordinates FTC actions with criminal law enforcement agencies through its Criminal Liaison Unit; develops, reviews, and enforces a variety of consumer protection rules; and runs the Bureau's Hispanic initiative, bankruptcy program, and collections shop.
4. Financial Practices protects consumers from deceptive and unfair practices in the financial services industry, including protecting consumers from predatory or discriminatory lending practices, as well as deceptive or unfair loan servicing, debt collection, and credit counseling or other debt assistance practices.
5. Marketing Practices leads the Commission's response to Internet, telecommunications, and direct-mail fraud; deceptive spam; fraudulent business, investment, and work-at-home schemes; and violations of the Do Not Call provisions of the Telemarketing Sales Rule.

6. Planning & Information collects and analyzes complaints about consumer fraud, identity theft, and the National Do Not Call Registry, and makes them available to law enforcement; helps distribute redress to consumers; and provides cutting-edge technological investigative and litigation support.
7. Privacy and Identity Protection protects consumers' privacy; works to prevent identity theft and aids consumers whose identities have been stolen; and implements laws and regulations for the credit reporting industry, including the Fair Credit Reporting Act.

#### Point of Contact List at FTC Regional Offices Regarding Servicemember Issues

##### ECR-Cleveland (DC, DE, MD, MI, OH, PA, VA, WV)

Jon Steiger, Regional Director, [REDACTED]

Larissa Bungo, Assistant Regional Director, [REDACTED]

##### MWR-Chicago (IA, IL, IN, KS, KY, MN, MO, NE, ND, SD, WI)

Steve Baker, Regional Director, [REDACTED]

Todd Kossow, Assistant Regional Director, [REDACTED]

##### NER-New York (CT, MA, ME, NH, NJ, NY, PR, RI, VT, USVI)

Bill Efron, Regional Director, [REDACTED]

Deborah Marrone, Assistant Regional Director, [REDACTED]  
[REDACTED]

##### NWR-Seattle (AK, ID, MT, OR, WA, WY)

Bob Schroeder, Regional Director, [REDACTED]

David Horn, Assistant Regional Director, [REDACTED]

##### SER-Atlanta (AL, FL, GA, MS, NC, SC, TN)

Cindy Liebes, Regional Director, [REDACTED]

Chris Couillou, Assistant Regional Director, [REDACTED]

Gideon Sinasohn, Staff Attorney, [REDACTED]

##### SWR-Dallas (AR, LA, NM, OK, TX)

Deanya Kueckelhan, Regional Director, [REDACTED]

James Golder, Assistant Regional Director, [REDACTED]

##### WR-San Francisco and Los Angeles (AZ, CA, CO, HI, NV, UT)

Jeffrey Klurfeld, Regional Director, [REDACTED]

Tom Dahdouh (SF), Assistant Regional Director, [REDACTED]  
[REDACTED]

Tom Syta (LA), Assistant Regional Director, [REDACTED]

## WHERE TO COMPLAIN

### FTC's Consumer Sentinel

A consumer complaint can be filed through the FTC's Complaint Assistant. There are two ways this can be done: Calling 1-877-FTC-HELP or going to [www.ftc.gov](http://www.ftc.gov) and clicking on the "Consumer Complaint? Report it to the FTC" button. The prompts will guide you through the process.

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Scammers have sent thousands of emails that appear to be from the FTC, but are not. These emails to business people claim that complaints have been filed against their companies. If you get an unexpected email that claims to be from the FTC and asks you to click on a link or attachment for information about consumer complaints, delete it. Don't open it. Don't click on the links. If you do, it may install malware on your computer.

If you think you may have downloaded malware, see [www.OnGuardOnline.gov/malware](http://www.OnGuardOnline.gov/malware).

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#### Before You Submit a Complaint

The Federal Trade Commission, the nation's consumer protection agency, collects complaints about companies, business practices, and identity theft under the FTC Act and other laws we enforce or administer.

**Why:** Your complaints can help us detect patterns of wrong-doing, and lead to investigations and prosecutions. The FTC enters all complaints it receives into Consumer Sentinel, a secure online database that is used by thousands of civil and criminal law enforcement authorities worldwide.

**The FTC does not resolve individual consumer complaints.**

**Your Privacy:** How much personal information you provide is up to you. If you don't provide your name and certain other information, it may be impossible for us to refer, respond to, or investigate your complaint. To learn more about this information collection and its purpose, authority and use, read our [Privacy Act Statement](#).



Click here for the Complaint Assistant form  
Click [here](#) to file a complaint with the FTC.

Haga clic [aquí](#) para acceder al Asistente de Quejas de la FTC en Español.



#### National Do Not Call Registry

The National Do Not Call Registry gives you a choice about whether to receive telemarketing calls at home. Most telemarketers should not call your number once it has been on the registry for 31 days. If they do, you can file a complaint

A consumer can file a complaint anonymously if you wish. The FTC enters all complaints it receives into Consumer Sentinel, a secure online database that is used by thousands of civil and criminal law enforcement authorities worldwide.

Also note that a complaint may be filed on behalf of someone else.

Once a complaint is successfully submitted, the servicemember will receive a confirmation screen with a reference number. This number is the individual number the FTC places on each complaint. Complaints can help us detect patterns of wrong-doing, and lead to investigations and prosecutions. The FTC does not resolve individual consumer complaints.

## **Consumer Financial Protection Bureau's Consumer Response**

CFPB is currently accepting consumer complaints related to mortgages, credit cards, bank accounts or services, car or consumer loans, student loans, and credit reporting. In the near future, they will be accepting complaints about money transfers, third party debt collection, payday loans, and other consumer fraud areas.

CFPB's consumer response center provides the consumer direct feedback from the charged entity and tracks the process for further investigation by law enforcement, if necessary.

A complaint can be submitted to the CFPB using the following contact information:

consumerfinance.gov/complaint/  
(855) 411-2372 or TTY/TDD (855) 729-2372  
M-F 8am – 8pm ET, excludes federal holidays, 180+ languages

# SAMPLE CONSUMER LETTERS

## SCRA, 50 U.S.C. app. 501, Sample Letters

### Sample 6% Interest Rate Cap Letter

(Name and Address of Servicemember)

(Date)

(Name and Address of Institution)

Re: Interest Rate Reduction for Acct # \_\_\_\_\_

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)** and am requesting that my monthly obligation including payments and interest on my account be reduced pursuant to my rights under the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 et seq. My entry into military service has materially affected my ability to meet this obligation which I incurred prior to my entry of active duty at the original interest rate or as it exists currently.

The SCRA (50 U.S.C. App. § 527) sets a 6% per annum ceiling on interest charges (including service charges, renewal charges, and fees) during the period of a servicemember's military service for obligations made before entry onto active duty when the active duty materially affects the ability to pay. Thus, the balance of my obligation may not have interest charged at a rate greater than 6% per annum and any interest above 6% must be forgiven and not accrued. Note that compliance with this law is mandatory upon the creditor once the soldier makes a request. Failure to comply with such a request can subject the creditor to damages.

Please ensure that your records are amended and or corrected to reflect that my obligation has been reduced to no more than the statutory ceiling rate of 6% and that any excess charge is withdrawn. It is my understanding that certain business entities have reduced their original interest rate to less than 6% as a good faith gesture in support of our country's military personnel and the important mission they serve. Please be further advised that you may not repossess for non-payment of an installment obligation without first complying with the provisions of the SCRA (including Section 532).

Thank you in advance for your attention and prompt action to this matter. Should there be any questions, please feel free to contact me at the above address.

Sincerely,

\_\_\_\_\_  
(Name of servicemember)

Encl:

Deployment Orders



## Sample Termination of Automobile Lease Letter

(Name and Address of Servicemember)

(Date)

(Name and Address of Institution)

Re: Turning Over Vehicle VIN **(Fill in VIN of vehicle)** Pursuant to the SCRA

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)**. I am the lessee of **(fill in year, make, model, and VIN of leased vehicle)** and I am invoking my rights under the Servicemembers Civil Relief Act, 50 App. U.S.C. § 501 et seq. My deployment has materially affected both my ability to pay for and my need for the vehicle.

Section 535(b)(2) of the SCRA allows a servicemember to terminate an automobile lease if the servicemember receives deployment orders for greater than 180 days. In this case, I will be deployed to **(place deployed to)** for at least **(number of days of ordered deployment)**. I have attached a copy of my orders for your file.

In accordance with 50 App. U.S.C. § 535(c), I have mailed this notice via certified mail, return receipt requested and I have already left the vehicle with **(lessor and contact person with the lessor)**. The representative with whom I have been working with at **(name of lessor)** is **(name of contact person)**, and **(he/she)** may be reached at **(phone number for contact person with the lessor)**. Therefore, in accordance with 50 App. U.S.C. § 535(d)(2), the effective date of termination is the postmark date of this letter.

Thank you in advance for your cooperation in this matter, and please feel free to contact me at **(your phone number or the number of someone holding a power of attorney to handle this matter)**.

Sincerely,

---

Encls:

Deployment Orders

Lease Contract

## Sample Termination of Rental Property Letter

(Name and Address of Servicemember)

(Date)

(Name and Address of Property Management Company or Landlord)

Re: Termination of Residential Lease

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)**. I am the lessee of **(address of rental residence)** and am I am invoking my rights under the Servicemembers Civil Relief Act, 50 App. U.S.C. § 501 et seq. My deployment has materially affected my need for this rental property.

Section 535(b)(1) of the SCRA allows a servicemember to terminate a residential lease if the servicemember receives deployment orders for greater than 90 days. In this case, I will be deployed to (place deployed to) for at least **(number of days of ordered deployment)**. I have attached a copy of my orders for your file.

In accordance with 50 App. U.S.C. § 535(c), I have mailed this notice via certified mail, return receipt requested **(notice can also be hand delivered)**. Therefore, in accordance with 50 App. U.S.C. § 535(d)(1), the effective date of termination is 30 days after the first date on which the next rental payment is due and payable after the date on which this notice was delivered (or agreed upon termination date).

I will mail/drop off my keys when I have vacated the rental premises. All security deposits and prorated future rents paid must be returned to me within thirty (30) days of the termination date of this lease. Please mail these monies to: **(address money should be sent to)**.

Thank you in advance for your cooperation in this matter, and please feel free to contact me at **(your phone number or the number of someone holding a power of attorney to handle this matter)**.

Sincerely,

---

Encls:

Deployment Orders  
Lease Contract

## Sample Stay of Proceeding Letter from an Attorney

(Name and Address of Servicemember)

(Date)

(Name and Address of Opposing Counsel/Judge)

Re: Requesting a Stay of Proceedings: **(Name of Action/Caption)**

Dear Sir/Ma'am:

I am **(description of who you are and firm/agency you are with)**. I am writing on behalf of **(name of servicemember)**, who contacted me because he is the (proposed) Defendant in the case of **(case caption)** in which you have been hired to represent **(opposing counsel's client)**.

Please note that I am not the attorney of record for purposes of representing **(name of servicemember)** in this civil matter. It is a function of my office to assist and advise servicemembers concerning the necessary steps to initially protect their interests.

**(Name of servicemember)** is presently on active duty and is assigned to **(unit information and location)**. As such, he is afforded certain rights under the Servicemember's Civil Relief Act (SCRA), as amended, 50 U.S.C. Appendix, Sections 501-596 (2005). Section 522 of the SCRA states that a court shall, upon application by the servicemember, grant a stay in a civil action for a period of not less than 90 days.

**(Name of servicemember)** hereby applies for protection from further proceedings in the civil action pending filing against him for a period of twelve (12) months. Please find attached a letter from **(name of servicemember)** commanding officer indicating that his military service materially affects his ability to conduct a defense. Based on **(name of servicemember)** current military deployment, he will not be able to attend any proceedings subsequently scheduled in this case.

In accordance with 50 U.S.C. App. §522(c), an application for a stay under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense, including a defense relating to lack of personal jurisdiction. This letter is not to be construed as either a submission to jurisdiction without lawful service or an appearance by or on behalf of **(name of servicemember)**. Additionally, this letter is not to serve as any form of answer to any petition, motion or complaint filed by **(name of servicemember)**.

I reiterate that my involvement in this case extends only to the preliminary counsel and assistance afforded to servicemembers by legal assistance attorneys. I (am not/will not be) the attorney of record for **(name of servicemember)** in this civil matter.

Because **(name of servicemember)** military service prevents his appearance, I request that you advise the court of his status and request a stay until after **(date of estimated return)**. Finally, **(name of servicemember)** requests that you notify him of any action concerning the civil case, particularly in regard to the status of any resulting stay of proceedings. In this regard, this information may be provided to him at the following address:

**(Servicemember's name and unit address (or address of family receiving mail))**

Thank you in advance for your help in affording **(name of servicemember)** an opportunity to participate in the legal process while meeting his obligations to the defense of our nation.

Sincerely,

---

Name and signature block of attorney

Encl: Memorandum from Commander  
CC: **(Servicemember)**

## Sample Stay of Proceeding Letter from Military Commander

(Name and Address of Commander and Unit)

(Date)

(Name and Address of Opposing Counsel/Judge)

Re: Requesting a Stay of Proceedings: **(Name of Action/Caption)**

Dear Sir/Ma'am:

I am an officer in the United States Army writing on behalf of **(name of servicemember)**, who is the proposed defendant in the case of **(case caption)**. **(Name of servicemember)** is currently deployed in support **(OIF/OEF and where stationed)**. He is assigned to my command.

**(Name of servicemember)** will be unable to attend any hearings, present any type of defense, or effectively protect his interests in the matter in question until **(estimated date of return)** because of his military duties. Until this date, **(name of servicemember)** is mission essential to our unit as a **(duty title/position)**. My legal officer advises me that federal law allows a stay of proceedings for servicemembers on active duty when their ability to defend themselves is materially affected by their military service (50 U.S.C. App. § 521). In this instance, **(name of servicemember)** critical role in the national security mission of this command precludes his participation in court proceedings until not earlier than **(estimated date of return)**. He will be unable to present any defense at all due to his deployed status.

**(Name of servicemember)** hereby applies for protection from further proceedings in the civil action pending filing against him for a period of **(length of time gone)** to properly attend to both his obligation to his unit and this legal proceeding. I will ensure that he is available upon return from deployment to appear at the next scheduled court date after **(estimated date of return)**.

I should note that I am not an attorney and am not making this request based on any attorney-client relationship between myself and **(name of servicemember)**. I am not representing **(name of servicemember)** with regard to the proceedings pending. This letter should not be considered an appearance by **(name of servicemember)**. Rather, it is a request in my capacity as a commander charged with a mission supporting the national security of this nation, that you delay the proceedings to allow this soldier to perform his critical part in that mission.

Thank you in advance for your assistance in this matter. I request that you inform me or **(name of servicemember)**, at the above address, of any action taken regarding this request.

Sincerely,  
Commander's Signature Block  
Deployment Orders  
CC: **(Name of servicemember)**

Example of State Law Consumer Sample Letters [Illinois Patriot Plan, Public Act 94-635]

**Sample 6% Interest Rate Cap Letter**

(Name and Address of Servicemember)  
(Date)

(Name and Address of Institution)

Re: Interest Rate Reduction for Acct # \_\_\_\_\_

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)** and am requesting that my monthly obligation including payments and interest on my account be reduced pursuant to my rights under the Illinois Patriot Plan, PA 094-0635 and the Interest Act, 815 ILCS 205/4.05. My entry into military service has materially affected my ability to meet this obligation, which I incurred prior to my entry on active duty, at the original interest rate or as it exists currently.

The Illinois Patriot Plan and The Interest Act sets a 6% per annum ceiling on interest charges (including service charges, renewal charges, and fees) during the period of a servicemember's military service for obligations made before entry onto active duty when the active duty materially affects the ability to pay. Thus, the balance of my obligation may not have interest charged at a rate greater than 6% per annum and any interest above 6% must be forgiven and not accrued. Note that compliance with this law is mandatory upon the creditor once the soldier makes a request. Failure to comply with such a request can subject the creditor to civil penalty.

Please ensure that your records are amended and or corrected to reflect that my obligation has been reduced to no more than the statutory ceiling rate of 6% and that any excess charge is withdrawn. It is my understanding that certain business entities have reduced their original interest rate to less than 6% as a good faith gesture in support of our country's military personnel and the important mission they serve.

Thank you in advance for your attention and prompt action to this matter. Should there be any questions, please feel free to contact me at the above address.

Sincerely,

\_\_\_\_\_  
(Name of servicemember)

Encl:  
Deployment Orders

## Sample Termination of Automobile Lease Letter

(Name and Address of Servicemember)

(Date)

(Name and Address of Institution)

Re: Turning Over Vehicle VIN **(fill in VIN of vehicle)** Pursuant to the Illinois Patriot Act and the Motor Vehicle Leasing Act

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)**. I am the lessee of **(fill in year, make, model, and VIN of leased vehicle)** and am I am invoking my rights under the Illinois Patriot Plan, PA 094-0635 and the Motor Vehicle Leasing Act, 815 ILCS 636/37. My deployment has materially affected both my ability to pay for and my need for the vehicle.

The Illinois Patriot Plan and the Motor Vehicle Leasing Act allows a servicemember to terminate an automobile lease if the servicemember receives deployment orders for greater than 180 days. In this case, I will be deployed to **(place deployed to)** for at least **(number of days of ordered deployment)**. I have attached a copy of my orders for your file.

In accordance with 815 ILCS 636/37(c) I have mailed this notice via certified mail, return receipt requested and I have already left the vehicle with **(name of lessor and contact person with the lessor)**. The representative with whom I have been working with at **(name of lessor)** is **(name of contact person)**, and **(he/she)** may be reached at **(phone number for contact person with lessor)**. (Effective date of termination is the date that both requirements of 815 ILCS 636/37(c) are satisfied.)

Thank you in advance for your cooperation in this matter, and please feel free to contact me at **(your phone number or the number of someone holding a power of attorney to handle this matter)**.

Sincerely,

---

Encls:

Deployment Orders  
Lease Contract

## Sample Cellular Phone Contract Termination Letter

(Name and Address of Servicemember)  
(Date)

(Name and Address of Institution)

Re: Termination of Cellular Phone Contract, Phone # \_\_\_\_\_

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)**. I currently have a cellular phone contract with you, **Phone #** \_\_\_\_\_, and am I am invoking my rights under the Illinois Patriot Plan, PA 94-0635 and the Military Personnel Cellular Phone Contract Termination Act, 815 ILCS 633/10. My deployment has materially affected my need for and ability to use this cellular phone.

The Illinois Patriot Plan allows a servicemember to terminate a cellular phone contract without penalty. I will be deployed to **(place deployed to)** for at least **(number of days of ordered deployment)**. I have attached a copy of my orders for your file.

In accordance with the Illinois Patriot Plan I have mailed this notice via certified mail, return receipt requested. Effective date of termination of this cellular phone contract will be thirty (30) days after the date of this notice, **(actual termination date)**.

Thank you in advance for your cooperation in this matter, and please feel free to contact me at **(your phone number or the number of someone holding a power of attorney to handle this matter)**.

Sincerely,

\_\_\_\_\_

Encls:

Deployment Orders  
Cellular Phone Contract

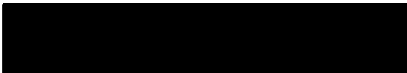


## Contacts

If you have any questions about this Toolkit, please contact:

- The Consumer Protection Branch of the Civil Division, US Department of Justice:

Richard Goldberg  
Assistant Director



Andy Clark  
Assistant Director



**2013**

Financial Fraud  
Enforcement  
Task Force  
Consumer  
Protection  
Working Group

Servicemember  
Subgroup



# State Attorneys General Toolkit on Consumer Protection for the Military

# State Attorneys General Toolkit on Consumer Protection for the Military



## Office of the Attorney General

Washington, D.C. 20530

March 7, 2013

Dear Law Enforcement Partner:

Even as our economy shows signs of improvement, financial fraud remains a growing threat to so many. And it can affect even the strongest and bravest among us -- our servicemembers and veterans.

This type of financial fraud is unacceptable. Financial crimes can be just as devastating as violent ones, and can wreak havoc not just on an individual, but on whole families. We as a Nation owe an incredible debt to our servicemembers and veterans and need to work together to protect them -- just as they do us. Because of that debt, it is our responsibility to use all available tools to deter and hold accountable those who would prey upon our servicemembers and veterans for financial gain.

That is why the Department of Justice, along with State Attorneys General, have come together in an historic fashion to express our commitment to greater enforcement against these pernicious forms of financial fraud. One product of that collaboration has been a set of enforcement toolkits containing the information that United States Attorneys, JAG Legal Assistance Attorneys, and State Attorneys General need to take effective enforcement action in this area. We believe that these enforcement toolkits will increase (1) dialogue amongst law enforcement about financial scams affecting the military; (2) referrals between military, state, and federal partners of potential investigative leads; and, most importantly (3) the number of civil and criminal cases brought against those who would defraud our servicemembers and veterans.

We implore you not just to review the materials herein, but keep them handy. Use them. Talk about consumer frauds that affect the military. Encourage those affected by fraud and other deceptive practices to report. Refer matters. Bring cases. And together, we may be able to prevent and stop this insidious financial fraud.

Thank you for all you do.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric H. Holder, Jr.", is positioned above the printed name.

Eric H. Holder, Jr.  
Attorney General

## A Message from Co-Chairs of the FFETF Consumer Protection Working Group

Effective consumer protection requires that all levels and branches of government work together to deliver more targeted prevention and enforcement. Communication, collaboration, and responsiveness are three key components in this effort. The educated consumer is, and always will be, the very best protection against fraud and deceit.

With that collaboration in mind, President Obama established the interagency Financial Fraud Enforcement Task Force (the "FFTEF") in 2009. We co-chair the Consumer Protection Working Group of that Task Force, focused on identifying threats to consumers, and working together to prevent and stop them.

The public that we protect is also safeguarded by those who defend us all – our active duty and reserve military servicemembers. Many of us know someone who has served in our Armed Forces. We all share an appreciation of the sacrifices made by those who protect us. Our service members don't ask for glory or to be described as heroes. They simply want to do their jobs, come home to their families, and enjoy the same freedoms and protections as others in America.

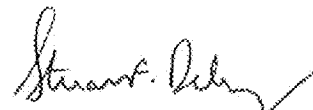
That is why financial scams directed at servicemembers, veterans and their families are so insidious – and why we have made stopping them a priority of the Consumer Protection Working Group. One way to demonstrate our thanks to those who give so much is to raise awareness, within the military and among those in law enforcement, about the specific consumer threats facing servicemembers and also to help build comprehensive strategy to target those threats.

This toolkit is designed to provide an overview of common consumer scams affecting the military, applicable federal and state laws, available federal and state partners, models for outreach to the military community, and sample legal materials to assist United States Attorneys and their AUSAs in bringing more enforcement in this area. We know that United States Attorney's Offices around the country are engaged in the same effort – conducting fraud prevention training in Bridgeport Connecticut, and base visits in Pensacola, Florida and in the District of Kentucky, for example. Our hope is that this toolkit offers an enforcement and outreach model for others to draw from, and a guide to better understanding some of the challenges faced by our servicemembers and their families.

To those reading this toolkit who have served in our military, we thank you for your sacrifice. To those US Attorneys seeking to bring more actions addressing fraud on servicemembers and their families, we hope that this toolkit provides a useful template for you and we look forward to working with you in the days to come.



André Birotte Jr.  
United States Attorney  
Central District of California



Stuart F. Delery  
Principal Deputy Assistant  
Attorney General  
Civil Division  
Department of Justice

March 7, 2013

Dear Generals:

The incredible sacrifices made by the men and women of the United States Armed Forces cannot be overstated. Servicemembers past and present have dedicated their lives and careers to the collective good, so that we can live as a free and prosperous nation.

Unfortunately, a growing number of scam artists and fraudsters are targeting the military population, using deceptive and criminal schemes to defraud servicemembers and their families as they make important financial decisions. From abusive lending practices to concerns about paying for education to identity theft and V.A.-related scams, all servicemembers – active, reserve, retired, and separated – remain vulnerable to myriad consumer challenges at nearly every turn. It is therefore critical that law enforcement agencies work together to ensure our servicemembers are protected from such scams both at home and abroad.


The Servicemember subgroup of the U.S. Department of Justice Financial Fraud Enforcement Task Force designed this Toolkit specifically to assist our fellow State Attorneys General in identifying and addressing common consumer protection issues that servicemembers face. This document is also intended to serve as a guide for relevant statutes and regulations, as well as being a resource with contact information for state and federal partners in this fight. With these tools in hand, our colleagues in offices of State Attorneys General nationwide should be better equipped to navigate the diverse issues and complex jurisprudence in this field.

We hope that this document will be the start of an ongoing dialogue among State Attorneys General about how best to ensure that our servicemembers and their families can protect themselves against fraud and make sound financial decisions. The greater our collaboration, the better our ability to protect this vitally important population.

Very truly yours,



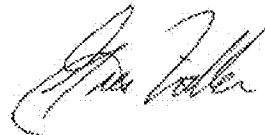
Jack Conway  
Attorney General, Kentucky



Roy Cooper  
Attorney General, North Carolina



Lisa Madigan  
Attorney General, Illinois



Greg Zoeller  
Attorney General, Indiana

## PREFACE

This edition of the State Attorneys General Toolkit (available in electronic format) is the first of its kind. This version contains hyperlinks to Internet sites and to other topics within the book. Those reading a printed version of this Toolkit will note that there may be words and phrases that are underlined. Some of these underlined words and phrases will appear in blue when viewing the online version, which means that the word or phrase is hyperlinked. We have done this because more and more users view this material using a computer with Internet access. Hyperlinking to Internet sites and within the book makes it much easier for the reader to research the various topics discussed.

The reader will also note that the word “veteran” is used throughout the book. This should be taken by the reader to mean veterans as well as veterans’ dependents. Likewise, the use of the term “servicemember” is used to mean both a servicemember, male or female, of the Armed Forces of the United States and the servicemember’s dependents. (Additionally, this Toolkit uses “servicemember” as the default term, but adopts “servicemember” where otherwise employed in a title or by another agency, and recognizes that both are in public usage.) Although the definition of veteran varies depending on the context of its usage, as a general rule, “servicemember” refers to those currently in the military while “veteran” refers, depending on the circumstances, to those either (1) still in the military who have met certain criteria to merit being called “veterans” or (2) to those who have completed their military service (and, typically, also have met certain criteria). The second category of veteran (those who are no longer in service) should also be distinguished from those who have retired from the military. Retirees from the military are those who have, independent of whether they qualify as a veteran, qualified for a federal retirement pension due to length of service (i.e., retirement for career members of the military).

The contents of this book are not provided for purposes of giving legal advice to the reader. The contents are for informational purposes only, and the authors of this work do not assume responsibility for the accuracy or veracity of the reports or studies summarized herein, nor does this publication represent a legal opinion of the contributors or their respective Offices. The purpose of this publication is to provoke thoughtful consideration, analysis, and action by the various State Attorneys General in the fight against scams and frauds targeted at current servicemembers, veterans, and military family. Cautionary messages, questions, legal cases, and pitfalls presented in this book are not the only legal issues to be considered. Reading this book is a good beginning, but independent legal research under the laws of the state or states concerned, as well as consultation and collaboration with the various state and federal subject matter experts, is highly recommended.

For a digital copy of the *State Attorneys General Toolkit*, please contact Dennis Cuevas, Staff Attorney, National Association of Attorneys General, at [dcuevas@naag.org](mailto:dcuevas@naag.org). Should you have suggestions or comments on this publication, please do not hesitate to contact him for submission to the current editorial group. This work is distributed free of charge to the various State Attorneys General of our nation. It is designed for internal use only and is not intended for general public distribution.

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# **SECTION ONE: INTRODUCTION/OVERVIEW**

# INTRODUCTION

In response to the financial crisis, President Obama created the U.S. Department of Justice (DOJ) Financial Fraud Enforcement Task Force (FFETF) in 2009. A functional component of the FFETF is a Consumer Protection Working Group, with an affiliated subgroup on Servicemember issues. The Servicemember subgroup recognized a need to promote awareness and enforcement of the rising number of scams and frauds perpetrated against current and past members of the military. To meet this need, members of the subgroup decided to draft a set of educational guides on servicemember fraud: each designed to assist various law enforcement agencies, to help to increase interagency cooperation, and to facilitate enforcement actions against fraudulent enterprises. This toolkit is the State Attorney General portion of that broader effort.

## OVERVIEW

### Orientation Regarding the Military

The Armed Forces of the United States are made up of five branches: the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.<sup>1</sup> Each branch consists of an active duty (full-time) component and a reserve (part-time) component. Despite some members being a part of the service reserve (“reservists”), over the course of their careers, many of them have spent months or years called up (“activated”) to full-time, active duty for specific tours of duty. The simplest case is those who have served in the active component. These servicemembers have all served on “active duty.” Today, service in a reserve component<sup>2</sup> often, but not always, includes “active duty” service.

Basic, minimal service in the reserve components consists of Inactive Duty for Training [IDT], annual training, and other periods of “Active Duty for Training” [ADT]. Such status does not meet the requirement for “active duty” when seeking federal veterans benefits. However, those who serve on active duty under federal command with the National Guard or Reserves are considered to be on “active duty.” In recent years, various units and individual servicemembers of the Reserve Component have been called up to active duty with increased frequency, typically for overseas deployments, particularly in light of the Global War On Terror [GWOT]. These activations are considered active duty service.

An important distinction must be drawn between the federal reserves and those who serve in the National Guard. Servicemembers of the National Guard are members both of their own state’s organized militia and the federally recognized National Guard. Thus, when talking about a member of the Guard, one often must ask: “in what status is that member currently serving?” In the context of this toolkit, the status of a servicemember in the Guard may have a bearing on which military consumer protection law applies.

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<sup>1</sup> 101 U.S.C. §101(a)(4) (2011).

<sup>2</sup> The reserve components are the Army National Guard of the United States [ARNGUS], the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, and the Coast Guard Reserve. 10 U.S.C. §10101 (2011)

The status of a guardsman can be broken down largely using two broad sets of categories: (1) who commands the guardsman in a given status; and (2) what source of money is being used to fund the servicemember's current activity and status. In answering these questions it is important to note that at any given period of duty, a member of the Guard is either under the command of a state Governor or the President of the United States. Likewise, the source of money being used to fund the guardsman's current duty status can bear on the scope of certain rights and duties.

**Service under U.S.C. Title 10:** This is *federal active service*. This federal authority is used to mobilize and deploy the federal reserves and to use the state-based National Guard for federal purpose.<sup>3</sup> The command and control in this federal active service belongs to the President and the federal government. This status is what one usually thinks of as regular active military duty.

**Service under U.S.C. Title 32:** This is *federally-funded* state active service. Typically, this status is used for training purposes:

- Weekend drills and annual training;
- Airport security duty;
- Certain full-time voluntary employment in the Guard or Reserves (AGR);
- State emergencies (e.g., floods, wild fires, tornados, lost-person searches, riot control, etc.).

**State Active Service:** Activation by the governor entirely at state cost.

	<b>Title 10 Service</b>	<b>Title 32 Service</b>	<b>State Active Service</b>
<b>Command &amp; Control</b>	President	Governor	Governor
<b>Where</b>	Worldwide	CONUS	State law controls
<b>Pay</b>	Federal	Federal	State
<b>Types of Mission</b>	Training overseas, federal deployments/missions abroad after mobilization	Training and other federally authorized activities	State law authorized: e.g., riot control, emergency response, etc.
<b>Disciplinary Authority</b>	UCMJ	State law	State law
<b>Support local Law Enforcement</b>	No: Except with specific authority	Yes	Yes

### What Distinguishes the Military Community from Other Constituencies?

One might reasonably ask why the military community (current servicemembers, veterans, and their families) should be singled out for special treatment when it comes to the regular work of State Attorneys General. The contributors to this first edition of the toolkit offer four reasons for the special focus on the military community:

<sup>3</sup> See, e.g., 10 U.S.C. §10106 (2011) ("The Army National Guard while in the service of the United States is a component of the Army.")

1. **Laws.** There are particular laws that apply specifically to the military community that do not apply to the general public in certain instances of consumer protection.
2. **Military Culture.** Just as reaching out to certain civilian constituents may require some understanding of another language or culture, the military community itself is distinct from civilian society, with its own set of laws (e.g., the UCMJ), customs, practices, and even language. The ability to connect to the military community is vital in discharging our collective obligation, as State Attorneys general, to serve military members that live and work within our individual jurisdictions.
3. **Individual Vulnerability.** The Armed Forces of the United States are renowned for their prowess, representing the pinnacle of military capability in human history. However, that image can sometimes obscure the reality that many – who are learned in military matters, and who have and do serve with such distinction – may not be equipped with the same level of sophistication when it comes to fraud and consumer matters. Such servicemembers may find themselves targeted by the unscrupulous who know these individuals have limited time and access to consumer products, but must, nonetheless, secure basic services and engage in financial transactions. Servicemembers may also be prey to those who use the false threat of military discipline for disregarded debts (a real concern), even if the basis of the debt in question is shaky – if not downright fraudulent. Such vulnerabilities are only exacerbated by the inherent demands of military service itself, in which an individual may be whisked away to his or her next duty station with limited means to outside lines of communication where they might ask questions or get assistance.
4. **National Security.** Protecting our servicemembers from scams and fraud supports national security. During and before the Cold War, the concept of supporting our servicemembers was largely influenced by the thought that the major (if not only) use of the military would be in the service of global conflicts (nation-state versus nation-state conflicts). The reserve components, in particular, were predominantly a strategic force available for large-scale activation in the event of war. Today, one need not be a policy insider or military strategist to understand that the focus has necessarily shifted: while the military continues to be ready to fight and defend against large-scale threats to the nation, the activity of the military has been drawn to a wider variety of potential and actual conflicts. These conflicts are not always against other nation-states and often involve a more complex range of military and non-military threats to confront. The reserve components have been called with increasing frequency to meet these large demands and fight side-by-side with active component servicemembers. Entanglements at home due to fraud and scams interfere with mission completion, and sap our nation's strength.

## **PURPOSE**

### **Goal of this Toolkit**

In promoting awareness of the particular impact of scams and frauds against servicemembers and veterans, the authors of this Toolkit, wish to (1) increase awareness of our federal partners' role in this field; and (2) invite the various State Attorneys General to recognize a paradigm shift: today, the need to support the military in its national defense mission is no longer a solely "a federal concern" that does not involve state interests. Many of our servicemembers directly participating in international operations are those that transition back and forth between civilian and military life. State enforcement action on behalf of members of the military is needed to guarantee that those who serve have the same opportunity to succeed as the rest of us. In addition, many of scams and frauds targeting the military are violations of state law, and thus the State Attorney General is well-positioned to bring the necessary enforcement actions.

### **Future of Such Efforts**

The authors of this Toolkit would also like to emphasize that this document is a first of its kind. We are not aware of any prior attempt to provide a basic reference on consumer fraud against military personnel directed to State Attorneys General. We hope this undertaking is not viewed as an end result, but as the beginning of a new platform for discussion among the states; for sharing best practices and alerting sister states of troubling trends. We hope that, with the input of State Attorneys General across the nation, this Toolkit will be considered a work-in-progress that can be continually revised and that might serve as foundational reference on the subject of servicemember consumer protection efforts.

## **SECTION TWO: SUMMARY OF COMMON SCAMS/FRAUD AFFECTING SERVICEMEMBERS AND VETERANS**

# LENDING

## Introduction: Lending Issues Facing Servicemembers

Servicemembers often become targets for abusive lending practices because they have steady paychecks and because of the demographics of the military: the vast majority of servicemembers are young enlisted men and women, who are more likely to be inexperienced in financial matters. Servicemembers are required to receive their paychecks via direct deposit, which in turn requires they maintain a bank account, making them prime subjects for lending scams that make use of those types of accounts.<sup>4</sup> Lending issues are especially critical for servicemembers because they may lose their security clearances if they do not maintain their finances properly.<sup>5</sup> Some of the lenders who take advantage of a servicemember's need for quick cash set up shop in close proximity to military installations or specifically target servicemembers via the Internet. Many of these scams involve short-term loans that include high interest rates and hidden fees. Abusive lending can arise in a vast array of credit transactions, ranging from payday and installment loans to car title loans to rent-to-own products. Debt collection related to these loans can sometimes lead to threats and harassment that defraud servicemembers and their families out of their hard-earned money.

## Military Lending Act

After an extensive study of the ways in which predatory lending affects American servicemembers, Congress enacted the John Warner National Defense Authorization Act of 2007. The Military Lending Act is a portion of that bill. Its provisions and regulations went into effect October 1, 2007.<sup>6</sup> This Act and corresponding regulations seek to protect active servicemembers from predatory lending by setting a strict 36% inclusive rate limit (which includes fees and charges) for certain closed-end consumer credit transactions, including payday, car title, and tax refund anticipation loans.<sup>7</sup> The statute expressly excludes from its protections residential mortgages and loans procured in purchasing a car or other personal property when the loan is offered for financing that purchase and is secured by the car or property.<sup>8</sup> However, for covered consumer credit transactions involving servicemembers, these provisions prohibit:

- Roll-overs, renewals, refinancing, and consolidation, unless the new terms benefit the servicemember;
- Mandatory arbitration clauses and waivers of legal rights;
- Securing a loan with a personal check or access to a bank account;
- Requiring repayment through military allotment; and

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<sup>4</sup> Jean Ann Fox, Consumer Federation of America, "The Military Lending Act Five Years Later: Impact on Servicemembers, the High Cost Small Dollar Loan Market, and the Campaign against Predatory Lending" 15 (May 29, 2012), *available at* <http://www.consumerfed.org/pdfs/Studies.MilitaryLendingAct.5.29.12.pdf>.

<sup>5</sup> *Id.* at 16.

<sup>6</sup> Military Lending Act, 10 U.S.C. § 987 (2013); Department of Defense Military Lending Act Regulations, 32 C.F.R. pt. 232 (2013).

<sup>7</sup> Fox, *supra* note 1, at 4.

<sup>8</sup> 10 U.S.C. 987(i)(6) (2013).



- Prepayment penalties.<sup>9</sup>

In these consumer credit transactions, creditors must also disclose the military annual percentage rate, as well as provide a clear description of the payment obligations and any other disclosures required by the Truth in Lending Act (TILA).<sup>10</sup>

The National Defense Authorization Act for Fiscal Year 2013, the President Obama signed into law on January 2, 2013, made changes to the MLA, adding provisions that allow for civil penalties and granting MLA enforcement authority to agencies listed in section 108 of TILA.<sup>11</sup> The amendments also require the Department of Defense to consult with the Consumer Financial Protection Bureau (CFPB) and other agencies at least once every two years in prescribing regulations under the MLA.<sup>12</sup>

Creditors who knowingly violate the MLA can be found guilty of a misdemeanor and, accordingly, fined or imprisoned for up to one year.<sup>13</sup> Recent amendments to the law also provide for civil penalties for violation of the Act.<sup>14</sup> Individuals who have been harmed can seek actual damages, punitive damages, equitable or declaratory relief, or “any other relief provided by law.”<sup>15</sup> The Act, under the recent amendment, can be enforced by agencies such as the CFPB, the US Department of Agriculture, the FDIC, and the SEC as to entities over which they have authority.<sup>16</sup>

A 2012 study conducted by the Consumer Federation of America found that in the Act’s five years of existence, it has helped to root out some of the harmful consumer credit practices covered by the MLA, especially in the realm of storefront payday lending.<sup>17</sup> It has, however, been more difficult to curb lending that takes place over the Internet. The study determined that, due to the MLA rate cap, refund anticipation loans to servicemembers have been effectively eliminated as banks have largely abandoned that market altogether.<sup>18</sup>

In spite of these gains, the Consumer Federation study acknowledged that improvements must be made to the law and its implementing regulations. First, the protections apply only to active-duty servicemembers, reservists, and their dependents, but not to inactive personnel, retirees, or veterans who also are often victims of abusive lending practices.<sup>19</sup> Second, lenders have adapted to the regulations’ parameters by manipulating their credit products in order to evade the definition of consumer credit; this is commonly accomplished by altering the length of a loan

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<sup>9</sup> 32 C.F.R. § 232.8 (2013).

<sup>10</sup> § 232.6.

<sup>11</sup> National Defense Authorization Act for Fiscal Year 2013, 2012 H.R. 4310 §§ 661-663 (2012); entities listed in section 108 of TILA (15 U.S.C. § 1607) are: Office of the Comptroller of the Currency, the FDIC, the Board of Governors of the Federal Reserve System, the National Credit Union Administration, the Secretary of Transportation, the Secretary of Agriculture, the Farm Credit Administration, the CFPB, and the SEC.

<sup>12</sup> *Id.*

<sup>13</sup> 10 U.S.C. 987(f)(1) (2013).

<sup>14</sup> 2012 H.R. 4310 § 662(a) (to be codified at 10 U.S.C. § 987(f)(5)).

<sup>15</sup> *Id.*

<sup>16</sup> 2012 H.R. 4310 § 662(b) (to be codified at 10 U.S.C. § 987(f)(6)).

<sup>17</sup> FOX, *supra* note 1, at 9.

<sup>18</sup> *Id.*

<sup>19</sup> FOX, *supra* note 1, at 9-10.

term or by offering a loan whose total amount exceeds the regulatory limit.<sup>20</sup> Finally, installment loans and rent-to-own financing are not included under the terms of the statute or regulations, frequently leaving servicemembers vulnerable to high rates and unfair practices for those credit products.<sup>21</sup>

## **States and the MLA**

State laws that are more protective of servicemembers for covered credit products are not preempted by the federal MLA.<sup>22</sup> Thus, if a state has rate caps that are lower than the 36% bar for such products, then the state can enforce those lower rates. The regulations also require states to enforce their laws to protect non-resident servicemembers who are stationed in their states.<sup>23</sup> It had been unclear whether this requirement applied to all credit products offered to servicemembers or just to those included in the MLA regulations; recent amendments to the MLA inserted “consumer credit” into the law to replace “loans,” implying that Congress intends these protections to apply only to the enumerated consumer credit products in the regulations (payday, car title, and tax refund anticipation loans).<sup>24</sup>

While the recent Congressional enactment expands the federal agencies that can enforce the MLA, several states have passed their own laws that expressly allow them to enforce the provisions of the Act.<sup>25</sup> However, many states have protections greater than those afforded by MLA and thus would have little use for it.

## **Payday Loans**

Payday loans are short-term, high-interest loans for which a borrower typically gives the lender a postdated check for the loan amount plus any additional fees. If the loan is not paid back by a certain deadline (often the borrower’s next payday), the lender is authorized to redeem the check. Because of the short payback period for these loans, rates and fees are often extremely high. Under MLA regulations, a payday loan is defined as closed-end credit with a term of 91 days or less in which the amount financed does not exceed \$2,000.<sup>26</sup> In addition, the borrower must receive funds and incur interest or fees and at the same time either provide a check or other payment instrument to the creditor who promises not to deposit the check for more than one day, or authorize the creditor to initiate a debit to the borrower’s deposit account after one or more days.<sup>27</sup> Loans for amounts greater than \$2,000 or for terms longer than 91 days are not considered payday loans under the regulations and are thus not subject to the 36% rate cap or the other protections included in the MLA.

Because the regulations prohibit creditors from making a loan that uses a check or other method of access to a servicemember’s deposit, savings, or other account, most traditional forms of

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<sup>20</sup> *Id.* at 10.

<sup>21</sup> *Id.*

<sup>22</sup> 10 U.S.C. § 987(d)(1) (2013).

<sup>23</sup> 32 C.F.R. § 232.7(b) (2013).

<sup>24</sup> 2012 H.R. § 661(a).

<sup>25</sup> FOX, *supra* note 1, at 12. See *infra* State Statutes that Address Military Lending Act (10 U.S.C. § 987).

<sup>26</sup> Definitions, 32 C.F.R. § 232.3 (b)(1)(i) (2013).

<sup>27</sup> *Id.*

payday lending are technically off-limits to servicemembers.<sup>28</sup> However, lenders can make loans that require an electronic fund transfer, a direct deposit of salary as a condition of eligibility, or take a security interest in funds deposited in an account created in connection with the transaction so long as the 36% rate limit is followed.<sup>29</sup>

While payday loans can provide servicemembers with quick access to cash, the high rates and fees can force servicemembers onto a “payday treadmill,” in which they must repeatedly take out additional loans in order to pay off their initial debt obligation. Businesses in the payday loan industry frequently exist in the form of actual brick-and-mortar establishments which are located near military installations and actively seek the patronage of servicemembers and their families. In recent years, payday lenders have also proliferated on Internet sites that directly market and cater to servicemembers. Because of the strict restrictions emanating from the MLA, the Consumer Federation of America study found that while many physical payday storefronts near military bases have been eliminated, efforts to reduce the availability of these loans online have been less successful.<sup>30</sup>

Despite the broad prohibitions on payday loans in the MLA and regulations, there is evidence that servicemembers and their dependents continue to obtain such loans, either by falsifying application information or because lenders simply fail to follow MLA protocol when a servicemember is involved in a transaction.<sup>31</sup> The rise of Internet loans has drawn special concern, even though the MLA regulations expressly prohibit securing a payday loan through electronic access to a servicemember’s bank account.<sup>32</sup> These Internet sites, which require borrowers to fill out applications online, often structure loans with longer terms or as “open-end” credit in order to avoid the requirements of the MLA.<sup>33</sup> Enforcement of the MLA and state laws has proven challenging due to claims of tribal sovereign immunity by some lenders and inconsistencies in state licensing requirements.<sup>34</sup>

Direct deposit advances, which are similar to payday loans, are a more recent development and are usually conducted by banks. When a consumer authorizes one of these advances, funds are deposited into the borrower’s account and get repaid at the time of the next deposit regardless of whether there are sufficient funds in the account or not (which can lead to overdraft fees).<sup>35</sup> These advances typically have APRs in excess of 300 percent.<sup>36</sup> Banks such as Regions Bank, Fifth Third, and Wells Fargo have been identified as entities that provide this type of advance, even in states in which payday lending is restricted.<sup>37</sup> This advance system represents a growing form of lending that could substantially impact the finances of servicemembers.

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<sup>28</sup> 32 C.F.R. § 232.8(5).

<sup>29</sup> *Id.*

<sup>30</sup> FOX, *supra* note 1, at 23.

<sup>31</sup> *Id.* at 24.

<sup>32</sup> *Id.* at 25.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 58.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 59.

Several states have already banned, either expressly or effectively, payday lending in any form, rendering moot the payday protections of the MLA.<sup>38</sup> Thirty-three states do authorize high-cost payday lending, several of which possess statutes allowing the state to enforce the MLA and its regulations.<sup>39</sup> At least 21 states have the authority to revoke lending licenses generally for violations of either “any law” or a “federal law,” though the procedures for doing so vary widely.<sup>40</sup> Some states also require a showing of financial misconduct before licenses are revoked.<sup>41</sup> Because there is such a diversity of state law in this area, you should check your state statutes and regulations to determine if usury laws or small-loan interest caps are more stringent than those under the MLA.

### **Refund Anticipations Loans**

Lenders in the refund anticipation loan market are financed by depository institutions and are thus regulated by federal agencies.<sup>42</sup> The MLA regulations promulgated by the Department of Defense have defined these loans as closed-end credit in which a borrower gives the lender the right to receive the borrower’s income tax refund, or in which a borrower promises to pay the loan back out of tax refund proceeds.<sup>43</sup> If a credit transaction to a servicemember meets this definition, then the rate cap and additional MLA protections will apply. While a handful of states require refund anticipation loan originators to register with the state, national banks are generally exempted from this requirement.<sup>44</sup> However, action taken by the IRS, FDIC, and the Office of the Comptroller of the Currency have effectively eliminated this market by determining that it is not a viable practice for banks.<sup>45</sup> Thus, the Consumer Federation has concluded that these types of loans are no longer a pressing concern to servicemembers.

### **Consumer Finance Loans**

Consumer finance loans are often sought by servicemembers with little or no credit to cover purchases and other costs. These loans can take a number of forms, though they generally include high APRs and costly add-ons, but are spread over a longer term than payday loans. They also occasionally involve principal that exceeds the \$2,000 payday limit in the MLA regulations. As such, most of these loans are not covered by that Act—meaning they are not subject to the 36% rate limit and the protections regarding disclosures, prepayment penalties, and allotments. Nevertheless, some states have enacted laws that impose rate caps and other restrictions for consumer finance loans.<sup>46</sup> Under the provisions of the Servicemembers Civil Relief Act (SCRA), servicemembers on active duty may cap the interest rate on most outstanding

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<sup>38</sup> According to the 2012 Consumer Federation of America report, these states include: Georgia, New York, New Jersey, Arkansas, Arizona, Connecticut, Maryland, Massachusetts, North Carolina, Pennsylvania, Vermont, West Virginia, New Hampshire, Montana, Ohio, and Washington, D.C.; *Id.* at 86.

<sup>39</sup> FOX, *supra* note 1, at 86-87; see State Statutes that Address Military Lending Act (10 U.S.C. § 987) *infra* p. 54-56

<sup>40</sup> *Id.* at 87.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 91.

<sup>43</sup> 32 C.F.R. § 232.3(b)(1)(iii) (2013).

<sup>44</sup> FOX, *supra* note 1, at 90-91.

<sup>45</sup> *Id.* at 91.

<sup>46</sup> *Id.* at 71.

loans at 6 percent. To do so, the servicemember should write a letter to each creditor letting them know about their order and intent to invoke the 6 percent cap.

### **Installment Loans**

Because the MLA and its regulations do not include installment loans and rent-to-own financing in their terms, servicemembers still receive these types of loan, which can lead to “extremely high rates and risky forms of security, inconsistent supervision at the state level, and [having] pay drained by military allotments when borrowing or financing purchases with these creditors.”<sup>47</sup> Many of these products are marketed directly toward servicemembers and their families. Installment loans can have APRs well above 36 percent, occasionally reaching a level of 100 percent or more. These loans are usually paid off over a period of one to three years by using military pay allotments.<sup>48</sup> The loans typically range from \$500 to \$10,000.<sup>49</sup> They are offered both in physical branch locations as well as over the Internet.<sup>50</sup>

As installment loans are not included in protections of the MLA, if lenders structure loans with terms longer than 91 days, they will be able to impose higher rates and fees. Your state may have provisions that limit these rates or require specific disclosures. The Consumer Federation of America has identified several specialty military lenders, including Omni Financial (based in Nevada), Patriot Loan Co. (based in South Carolina), and Pioneer Financial Services, Inc. (based in Georgia), as being prominent actors in this field.<sup>51</sup> These companies extend credit to servicemembers and encourage repayment by military allotment, though most are not licensed in the all states in which they make loans.<sup>52</sup> Some states have brought actions against these companies, as in 2008, when regulators in Nevada filed a consent order against American Military Funding, Inc. for unlicensed lending.<sup>53</sup>

### **Retail Installment/Rent-to-Own**

Many complaints from servicemembers regarding retail installment sales and rent-to-own products have been documented. These businesses—which often sell products through credit paid by military allotment—offer electronics, furniture, and jewelry to servicemembers in stores located near military installations.<sup>54</sup> Because these installment agreements are usually structured with longer repayment terms, they do not fall under the protections of the MLA. Thus, servicemembers often buy products with high interest and fees, or alternatively with lower interest over such long terms that the products end up being several times more expensive than the actual retail price at other stores.<sup>55</sup>

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<sup>47</sup> *Id.* at 10.

<sup>48</sup> *Id.* at 63.

<sup>49</sup> *Id.* at 70.

<sup>50</sup> *Id.* at 63-64.

<sup>51</sup> *Id.* at 65.

<sup>52</sup> *Id.* at 67.

<sup>53</sup> *Id.* at 71.

<sup>54</sup> *Id.* at 76.

<sup>55</sup> *Id.* at 76-77.

State Attorneys General from New York and Tennessee have taken action against Brittle, Inc. (who did business as SmartBuy, The Military Zone, and Laptoyz Computers and Electronics near several military bases), for excessive fees and for requiring payment by military allotment.<sup>56</sup> The Consumer Federation of America also identified USA Discounters, Harris Jewelry, and Freedom Furniture and Electronics as companies in this industry that promote their products directly to servicemembers.<sup>57</sup> These businesses frequently include in fine print that the total cost of the items must be arrived at by multiplying the normal payment by 48, since payment plans often are often scheduled for two years of twice-monthly payments.<sup>58</sup> Many servicemembers are thus deceived as to the true cost of the item they are purchasing.

Many rent-to-own establishments such as Rent-A-Center are also located near military bases.<sup>59</sup> Complaints over these businesses have stemmed from high rates, total costs greatly exceeding typical retail, and requirements that servicemembers pay via military allotment.<sup>60</sup> The MLA does not cover these rent-to-own businesses, though your state may have specific restrictions on the types of rates and fees that may be charged.

## **Auto**

Automobile-related lending scams are some of the most prevalent sources of complaints from servicemembers each year.<sup>61</sup> Some of the most common scams upon servicemembers involve “yo-yo” financing, buy here/pay here lots, loan packing with expensive add-ons, and falsifying applications to put servicemembers into unaffordable loans.<sup>62</sup> Some of these actions occur at dealerships that are located near military bases or at businesses that advertise specifically to servicemembers and their families.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, enacted in 2010, exempts franchise and large independent dealers from the oversight of the newly created Consumer Financial Protection Bureau (CFPB).<sup>63</sup> Nevertheless, the FTC does regulate those entities, while the CFPB possesses oversight authority over small independent dealers and buy here/pay here dealerships.<sup>64</sup> The FTC has taken action against several car dealers in recent years, mostly for deceptive advertising practices.<sup>65</sup> Your state may provide for certain disclosures in automobile transactions or may allow for actions against these auto dealers under unfair and deceptive acts and practices law.

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<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 77.

<sup>58</sup> *Id.* at 78.

<sup>59</sup> *Id.* at 79-80.

<sup>60</sup> *Id.*

<sup>61</sup> National Association of Consumer Advocates, *Auto Dealers' Predatory Practices Target Our Troops* (2010), available at [http://www.nclc.org/images/pdf/special\\_projects/military/fact-sheet-auto-dealers-targeting-troops.pdf](http://www.nclc.org/images/pdf/special_projects/military/fact-sheet-auto-dealers-targeting-troops.pdf).

<sup>62</sup> *Id.*

<sup>63</sup> DEBBIE BOCIAN, ET AL., CENTER FOR RESPONSIBLE LENDING, *THE STATE OF LENDING IN AMERICA & ITS IMPACT ON U.S. HOUSEHOLDS* 80 (2012), available at <http://www.responsiblelending.org/state-of-lending/state-of-lending.html>.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

Soldiers on deployment are able to legally terminate some leases. Servicemembers wishing to do so should contact the leaseholder and inform them of their deployment.

### **Car Title Loan**

A majority of states already prohibit car title lending, either by explicitly banning the practice or effectively banning it through rate caps.<sup>66</sup> A vehicle title loan is defined by the MLA as closed-end credit with a term of 181 days or less that is secured by title to a registered vehicle.<sup>67</sup> If a car title loan falls under this definition, then the 36% rate cap and the other MLA protections will apply when being extended to a servicemember or a dependent. Most of these loans have an APR of around 300 percent and can result in repossession if not repaid.<sup>68</sup> The Consumer Federation of America found that servicemembers are still being offered these car title loans, which are occasionally crafted with longer term limits or as open-credit transactions to evade MLA requirements. Some states such as California do have laws that address these abusive practices.<sup>69</sup> You should check your state statutes to find if there are any applicable provisions.

### **Yo-Yo Scams/ Spot Delivery**

In a “yo-yo” scam, after a consumer leaves the car dealership believing that financing has been finalized on the purchase of an automobile, the individual will later be contacted by the dealer who then states that the deal has been cancelled and the car must be returned.<sup>70</sup> Dealers effectively claim that they can cancel the contract, thereby allowing them to charge higher interest rates and fees to the purchaser.<sup>71</sup> The dealer may also attempt to physically repossess the car. Some dealers may also refuse to return the consumer’s down payment or trade-in vehicle to pressure the consumer into agreeing to an unfavorable loan. Such practices are prohibited in some states so check your state’s consumer unfair and deceptive acts and practices laws for applicable provisions.<sup>72</sup>

### **Loan Packing**

Car dealerships will often try to market add-on products to consumers, including vehicle service contracts, insurance, and assorted upgrades.<sup>73</sup> These products are often not included in the sale price and are frequently sold to the purchaser based on the monthly payment amount, making it difficult for the purchaser to determine the total cost of the transaction.<sup>74</sup>

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<sup>66</sup> FOX, *supra* note 1, at 88.

<sup>67</sup> Definitions, 32 C.F.R. § 232.3 (b)(1)(ii) (2013).

<sup>68</sup> FOX, *supra* note 1, at 27.

<sup>69</sup> BOCIAN, *supra* note 62, at 80-81.

<sup>70</sup> *Id.* at 71.

<sup>71</sup> *Id.* at 72.

<sup>72</sup> See, e.g., Illinois Consumer Fraud and Deceptive Practices Act, 815 ILCS 505/2C.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

## Buy Here/Pay Here Dealerships

“Buy here/pay here” establishments usually target individuals with bad credit or no credit, and can be located near military installations. Prices are often not listed on the cars on the lot.<sup>75</sup> Financing is typically done in-house and the automobile financing plan usually has an APR around 25%.<sup>76</sup> There are often large down payments as well as payment required on a weekly basis. Buy here/pay here dealerships are also infamous for repossessing an automobile as soon as it appears the consumer will be delinquent on a payment.<sup>77</sup>

## Debt Collection

Charges of abusive debt collection practices against servicemembers are one of the largest complaint categories in the FTC’s Military Sentinel database, ranking just behind identity theft.<sup>78</sup> Those engaged in the payday loan business will occasionally sell information that a servicemember has entered into a loan application which can then be used for collecting a debt that may not be legitimate, even if the individual decides not to go through with the loan.<sup>79</sup> These debt collectors often target servicemembers by calling their homes and demanding that they or their families send funds through a transmittal service in order to settle an outstanding debt, even if one does not exist.<sup>80</sup> A variety of threats, including reporting the servicemember to his or her commanding officer, may be used in order to extort money from the individual.<sup>81</sup>

An important tool in the fight against abusive debt collectors is the Fair Debt Collection Practices Act (15 U.S.C. § 1692-1692p). For a summary of the FDCPA, see Section Three (below).

## Mortgage Rescue Scams

Mortgage rescue advertisements often promise to save homes from foreclosure, but only a lender can determine whether or not an individual qualifies for assistance. The Federal Trade Commission’s Mortgage Assistance Relief Services (MARS) rule makes it illegal for companies to collect a fee until a consumer has actually received an offer from his or her lender and accepted it. That means even if a servicemember agrees to have a company help them apply for assistance, the servicemember doesn’t have to pay until he or she receives results. The MARS rule also requires mortgage rescue companies to provide consumers with information about mortgage rescue services, including that a lender might refuse to modify a mortgage loan, and that consumers have the right to keep communicating with their lender directly. More information about the MARS rule, including how to file a complaint with the FTC is available at <http://www.consumer.ftc.gov/>.

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<sup>75</sup> *Id.* at 73.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> FOX, *supra* note 1, at 16.

<sup>79</sup> *Id.* at 26.

<sup>80</sup> Office of the Colorado Attorney General, Consumer Guide for Military Personnel and Their Families 7 (2012), available at <https://www.coloradoattorneygeneral.gov/sites/default/files/uploads/CP/Military%20Guide%20-%20Print%20Version%20%28Final%29%208-14-12%29.pdf>.

<sup>81</sup> *Id.*



Many states also have laws that require mortgage rescue companies to obtain a surety bond or register with the state. For example, Indiana law requires mortgage rescue companies to have a written contract with consumers describing in detail the services to be performed, provide consumers with a seven-day right to cancel the contract, and maintain a \$25,000 bond to be used to satisfy consumer claims. Companies that promise to repair credit or reduce debt must also file a surety bond and provide similar protections.

Servicemembers seeking mortgage assistance should also contact their respective state about free foreclosure prevention resources that are available in that state. You should check to see what kinds of foreclosure prevention resources are available to servicemembers in your state.

### **Servicemembers Civil Relief Act in Mortgage Cases**

Although discussed more generally below under the subsection on federal law, one should note the potential applicability of the Servicemembers Civil Relief Act (SCRA), a federal law that provides debt-related protections for servicemembers called to active duty or deployed, to mortgage issues. The SCRA covers all active duty servicemembers, reservists and members of the National Guard while on active duty. The law's protection begins on the date that a servicemember enters active duty and generally terminates within 30 to 90 days after the servicemember is discharged from active duty. Some of the law's protections are described below.

Servicemembers on active duty may request a cap on the interest rate on most outstanding loans (including mortgages) at 6 percent. The interest above 6 percent is forgiven. To have the interest rate reduced to 6 percent, the debt must have been incurred prior to active duty and the servicemember must send a letter to each creditor, along with a copy of current military orders, requesting relief under the SCRA. For most loans, this protection lasts only for the period of active duty. For mortgages, the protection lasts an additional year following active duty.

Soldiers who are on deployment for certain lengths of time (varying by lease/situation) or who have received permanent change of station orders are legally able to terminate some leases. A servicemember who is currently leasing a vehicle or home/apartment and wishes to terminate a lease should contact the leaseholder, inform them of the deployment status, and provide them with a copy of military orders.

In limited situations, a servicemember may be able to obtain a "stay" (a temporarily delay) in a foreclosure or other civil court proceeding if he or she is called up to active duty after the case has been filed. The servicemember's absence must be explained to the court and evidence must be presented as to why the absence would materially affect the ability for his or her interests to be represented in the case. Similarly, servicemembers and their families may obtain a temporary stay of eviction proceedings while the servicemember is on active duty. If rent payments are below a certain amount (adjusted annually), the SCRA can protect a servicemember from being evicted for a period of time (generally three months). The apartment or home must be the residence of either the active duty servicemember or his or her dependents, the stay must be specifically requested, and the servicemember must show material effect.

Servicemembers should contact their nearest Armed Forces Legal Assistance Program office to see if the SCRA applies to their situation. Servicemembers' dependents may also contact local military legal assistance offices where they live. AFLA Office locations may be found at <http://legalassistance.law.af.mil/content/locator.php>.

### **Enhanced Mortgage Protections Pursuant to the Mortgage Servicing Agreement**

On April 4, 2012 the U.S. Department of Justice (DOJ), the Department of Housing and Urban Development (HUD) and 49 state attorneys general (including Illinois) filed a consent judgment with **Bank of America Corporation, J.P. Morgan Chase & Co., Wells Fargo & Company, Citigroup Inc. and Ally Financial Inc., (“Servicers”)** to resolve the banks' violations of state and federal consumer protection laws, including past mortgage loan servicing and foreclosure abuses. The settlement also provides financial relief to borrowers harmed by bank fraud, establishes new protections for homeowners, and enhances protections for servicemembers that go beyond those required by the SCRA. The enhanced protections are listed as follows:

- (1) Servicers must comply with the SCRA. Servicers must have a consultant review all known military foreclosures from January 1, 2009 to December 31, 2010, and provide monetary damages in compliance with the DOJ consent agreements with Countrywide<sup>82</sup> and Saxon Mortgage Services.<sup>83</sup>
- (2) Servicers must determine whether their servicemember borrowers are eligible for SCRA protections.
- (3) Servicers must check the DMDC to determine whether their borrowers are serving on active military duty at the following times:
  - Before referring a loan for foreclosure;
  - Within seven days before a foreclosure sale; and
  - Before the last point before a foreclosure becomes irreversible.
- (4) When invoking their rights under the SCRA, servicemembers may provide their servicer with either military orders or a letter on official letterhead from the servicemember's commanding officer to demonstrate proof of active duty service.
- (5) Servicers must notify servicemember borrowers who are 45 days delinquent the following:
  - They may be entitled to certain SCRA protections regarding the servicemember's interest rate and the risk of foreclosure; and
  - Counseling for covered servicemembers is available at agencies such as Military OneSource, Armed Forces Legal Assistance (AFLA), and a HUD-certified housing counselor.
- (6) Servicers may not sell, foreclose, or seize the property of a servicemember borrower for defaulting on a mortgage obligation during or within nine months after, the period in which the servicemember is serving at a location more than 750 miles from the location of the secured property or outside of the United States and is eligible for Hostile Fire/ Imminent Danger Pay.

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<sup>82</sup> See BAC/Countrywide Consent Order.

<sup>83</sup> See Saxon Consent Order, 3:11-cv-111-F (USDC TX-ND), filed May 26, 2011.

- Servicemembers are protected under this provision regardless of whether the mortgage obligation was originated before or during the period of military service.
- (7) Servicers may not require servicemember borrowers to be delinquent to qualify for a short sale, loan modification, or other loss mitigation relief if the servicemember is experiencing financial hardship and is otherwise eligible for such loss mitigation due to a Permanent Change of Service (PCS).
- (8) Servicers may not make inaccurate reports to credit reporting agencies when a servicemember, who has not defaulted before relocating pursuant to a PCS, obtains a short sale, loan modification, or other loss mitigation relief.

## **EDUCATION**

### **Quick Overview of Benefits Available**

#### **Department of Defense benefits**

##### Tuition Assistance (TA)

Armed Forces TA is a benefit paid to eligible members of the Army, Navy, Marines, Air Force, and Coast Guard. Each service branch has authorization to pay up to 100% for the tuition expenses of its members. Each service has its own criteria for eligibility, obligated service, application process and restrictions. This money is usually paid directly to the institution by the individual service branch.

For two branches of the Armed Forces, you can apply online. For the Air Force, apply online at the Air Force Virtual Education Center at <https://www.my.af.mil/>. For the Army, apply online at <http://www.GoArmyEd.com> prior to the course start date or before the school's late registration period.

In the case of the Navy, sailors must complete a TA application form NETPDTC 1560/3 and submit it to the nearest Navy College Office. For the Marine Corps, marines must complete a TA application form NETPDTC 1560 and submit it to the appropriate education office PRIOR to enrollment.

##### Military Spouse Advancement Accounts (MyCAA)/ Spouse Tuition Assistance

The MyCAA program is a benefit paid to spouses of active duty servicemembers in pay grades E1-E5, W1-W2, and O1-O2. Spouses of activated reserve component members are also eligible for the program but must be able to start and complete their courses while their sponsor is on Title 10 orders. MyCAA provides up to \$4,000 (over 2 years) of financial assistance for eligible military spouses who are pursuing degree programs, licenses, or credentials leading to employment in portable career fields.

Spouses can apply at the MyCAA Spouse Portal online at <https://aiportal.acc.af.mil/mycaa>. Once on the Spouse Portal site, the spouse must provide the required Spouse Profile information.

MyCAA then verifies the spouse's DEERS (Defense Enrollment Eligibility Reporting System) benefit eligibility and confirms if the spouse meets MyCAA eligibility requirements in order to establish a MyCAA Account.

## **VA Benefits**

### Montgomery GI Bill (MGIB)

To qualify for MGIB (Chapter 30) benefits, individuals must sign up while on active duty and pay a \$1,200 contribution fee, either in a lump sum or as a \$100 per month pay reduction for 12 months.

To be eligible for the MGIB, individuals must meet the following requirements:

- Have at least two years of continuous active duty service
- Have received an honorable discharge
- Possess a high school diploma or GED

Individuals are eligible for benefits for **10 years** from their last period of active duty.

### Post 9/11 GI Bill

The Post 9/11 GI Bill (Chapter 33) provides educational benefits to veterans and servicemembers who have served on active duty on or after September 10, 2001. Individuals may be paid benefits for educational or vocational training pursued on or after August 1, 2009

Individuals who have served at least 90 aggregate days on active duty after September 10, 2001, and are still on active duty or were honorably discharged or released from active duty are eligible for this benefit. To qualify for 100% of the benefit, the individual must have served for 36 months of active duty service. For those who served fewer than 36 months, the percentage ranges from 40% to 90%.

Individuals are eligible for benefits for **15 years** from their last period of active duty of at least 90 consecutive days, or their last period of active duty of at least 30 consecutive days if released for a service-connected disability.

### Veteran's Educational Assistance Program (VEAP)

VEAP is available to veterans who elected to make contributions from their military pay to participate in this education benefit program. Veteran contributions are matched on a \$2 for \$1 basis by the government. Generally, participation in VEAP ended with the MGIB. Benefit entitlement is 1 to 36 months depending on the number of monthly contributions. Veterans who participated in VEAP may still be eligible for benefits provided the following requirements are met:

- The veteran was discharged under conditions other than dishonorable.
- The veteran completed his or her first period of service.

- The veteran completed his or her first period of service between January 1, 1977, and June 30, 1985.
- The veteran opened a contribution account before April 1, 1987.
- The veteran voluntarily contributed \$25 to \$2,700.

If the servicemember is still on active duty and has a VEAP account, there must be at least 3 months of contributions available to use the VEAP benefits, and the servicemember must have enlisted for the first time after September 7, 1980, and completed 24 months of his or her first period of active duty.

The servicemember has 10 years from release from active duty to use VEAP benefits. If there is entitlement not used after the 10-year period, the remaining money will be automatically refunded.

### Survivor and Dependent Educational Assistance (DEA)

The DEA program provides education and training opportunities to eligible dependents of certain veterans. DEA benefits may be used for degree and certificate programs, apprenticeship, and on-the-job training.

To be eligible for DEA, an individual must be the son, daughter, or spouse of:

- A veteran who died, or is permanently and totally disabled, as the result of a service-connected disability. The disability must arise out of or be aggravated by active service in the Armed Forces;
- A veteran who died from any cause while such service-connected disability was in existence;
- A servicemember missing in action or captured in the line of duty by a hostile force;
- A servicemember forcibly detained or interned in the line of duty by a foreign government or power; or
- A servicemember hospitalized or receiving outpatient care for a VA-determined service-connected permanent and total disability for which the servicemember may be discharged from military service.

Spouses and surviving spouses have 10 years from the date the VA establishes eligibility to use the DEA benefit. Surviving spouses of veterans who died while on active duty have 20 years from the date of the veteran's death to use the benefit. If the VA rated the veteran permanently and totally disabled with an effective date of 3 years from discharge, a spouse will remain eligible for 20 years from the effective date of the rating. Children may use the benefit while they are between the ages of 18 and 26.

### **For-Profit Schools**

Under the GI Bill, servicemembers, veterans and their families are provided generous education benefits. These benefits are in addition to those available under Title IV of the Higher Education Act (HEA). A study by the Senate Committee for Health, Education, Labor and Pensions

(“HELP” Committee) determined that a large percentage of the benefits set aside for veterans’ education is spent for programs at for-profit colleges.<sup>84</sup> The for-profit education industry has come under increasing scrutiny by Congress and the Attorneys General during recent years. In Congress, the Senate Committee for Health, Education, Labor and Pensions (the “HELP” Committee) subpoenaed information from the leading for-profit education companies and documented several troubling matters including deceptive and aggressive recruiting practices, high student debt loads and default rates, and poor student outcomes including high withdrawal rates.<sup>85</sup> The Committee also determined that eight of the ten largest recipients of GI Bill benefits after 9/11 are for-profit education institutions.<sup>86</sup> Several state Attorneys General have also launched investigations and in some states have filed suits against various for-profit entities alleging violations of various consumer protection laws.

A multistate working group consisting of thirty-two (32) state Attorneys General was formed in late 2011. In June of 2012, twenty (20) state Attorneys General entered into an Assurance of Voluntary Compliance (AVC) with QuinStreet, Inc., a marketing firm that generated leads for for-profit education companies. QuinStreet was alleged to have used deceptive websites including GIBill.com, which were designed to appear to be official government websites. Though they appeared to be neutral websites providing unbiased and complete information about GI Bill education benefits, these websites in fact included links only to sponsored, mostly for-profit schools (which paid for the listing) and further funneled servicemember inquiries only to their clients’ schools. As a result of the AVC, QuinStreet agreed to change all of its websites to eliminate misleading content and improve disclosures, and, as part of the settlement, ownership of the website GIBill.com was transferred to the U.S. Department of Veterans Affairs.<sup>87</sup>

Several state Attorneys General have filed lawsuits against for-profit colleges that operate inside their respective states including the following:

- Education Management Corporation<sup>88</sup> which operates:
  - Argosy University;
  - Art Institute;
  - Brown Mackie College; and
  - South University
- Corinthian College<sup>89</sup>
- Daymar College;<sup>90</sup>

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<sup>84</sup> The HELP committee found that “37 percent of post-9/11 GI bill benefits and 50 percent of Department of Defense Tuition Assistance benefits flowed to for-profit colleges.”

<sup>85</sup> [http://www.help.senate.gov/imo/media/for\\_profit\\_report/Contents.pdf](http://www.help.senate.gov/imo/media/for_profit_report/Contents.pdf)

<sup>86</sup> [http://www.help.senate.gov/imo/media/for\\_profit\\_report/ExecutiveSummary.pdf](http://www.help.senate.gov/imo/media/for_profit_report/ExecutiveSummary.pdf)

<sup>87</sup> <http://chronicle.com/article/For-Profit-College-Marketer/132653/>

<sup>88</sup> EDMC was sued by the U.S. Department of Justice in a false claims act case alleging that EDMC violated a federal rule restricting schools’ payment of commissions for recruiting students. Five states (California, Florida, Illinois, Indiana and Minnesota) and the District of Columbia intervened in the lawsuit, represented by their respective Attorneys General.

<sup>89</sup> Corinthian College operates nationally. In 2007, the California Attorney General entered into a \$6.5 million settlement with Corinthian, resolving allegations that Corinthian falsely advertised the number of graduates obtaining employment and the starting salaries of its graduates. <http://oag.ca.gov/news/press-releases/brown-reaches-multi-million-settlement-corinthian-vocational-school>

- Everglades University;<sup>91</sup>
- Keiser University;
- Keiser Career College;
- MedVance<sup>92</sup>
- National College of Kentucky;<sup>93</sup>
- Spencerian College<sup>94</sup>
- Westwood College<sup>95</sup>

It appears that under the current application of the federal government's "90/10 Rule" for federal student loan and grant money, for-profit education companies are highly motivated to target servicemembers for recruitment. The Higher Education Act's 90/10 Rule provides that for-profit schools may not derive more than ninety percent (90%) of their revenue from federal student aid sources that are provided under Title IV. The other 10% must come from other sources including private or institutional loans. The large for-profit schools investigated by the HELP Committee collectively operated very near the 90/10 limit. However, importantly, the 90% limit in this rule does not apply to GI Bill benefits because GI Bill benefits are separate and apart from Title IV funds. Thus, GI bill education benefits received by the institution are counted in the 10% portion of the 90/10 calculation even though they are federal benefits much like Pell Grants and Stafford loans. As a result of this loophole, the HELP Committee determined – and the QuinStreet investigation affirmed – that servicemembers are aggressively targeted by for-profit

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<sup>90</sup>Daymar College operates in Kentucky, Indiana, Ohio and Tennessee. The Kentucky Attorney General alleged that Daymar committed multiple violations of the Kentucky Consumer Protection Act, including coercing students to purchase textbooks at inflated prices from the school bookstore, manipulating students' financial aid to benefit the school at the expense of students, failing to adhere to accreditation standards, making false representations concerning transferability of credits and admitting students who did not meet the school's admissions standards, including mentally challenged individuals. <http://migration.kentucky.gov/newsroom/ag/daymarsuit.htm>

<sup>91</sup> Keiser University, Keiser Career College and Everglades University operate in Florida and entered into an AVC with the Florida Attorney General in 2012 resolving the state's investigation of the schools' enrollment and marketing practices.

<http://myfloridalegal.com/852562220065EE67.nsf/0/1855DD51DF133CC285257AA800670A10?Open&Highlight=0.keiser>

<sup>92</sup> MedVance operates in Florida. In 2012, the Florida Attorney General entered into a \$600,000 settlement with MedVance resolving false advertising claims.

<http://myfloridalegal.com/852562220065EE67.nsf/0/F3599CFFCC64359A85257A1C006A3B0C?Open&Highlight=0.medvance>

<sup>93</sup> National College operates in Kentucky, Virginia, Ohio and Tennessee. The Attorney General of Kentucky alleged that National violated the Kentucky Consumer Protection Act by misrepresenting the placement rates of its graduates in the careers in which they studied. <http://migration.kentucky.gov/Newsroom/ag/nationalcollegesuit.htm>

<sup>94</sup> Spencerian College operates in Kentucky. In 2012, the Kentucky Attorney General filed a consumer protection suit which alleged that Spencerian violated the Kentucky Consumer Protection Act by misrepresenting the placement rates of its graduates in the careers in which they studied.

<http://migration.kentucky.gov/Newsroom/ag/spenceriansuit.htm>

<sup>95</sup> Westwood College operates nationally. In 2012, the Illinois Attorney General sued Westwood, alleging multiple violations of the Illinois Consumer Fraud laws.

[http://illinoisattorneygeneral.gov/pressroom/2012\\_01/20120118.html](http://illinoisattorneygeneral.gov/pressroom/2012_01/20120118.html). In 2012, Colorado's Attorney General settled a consumer protection lawsuit against Westwood College for \$4.5 million. The Attorney General had alleged that Westwood misrepresented the placement rates of its graduates in the careers in which they studied and that Westwood's student loan practices violated Colorado law.

[http://www.coloradoattorneygeneral.gov/departments/consumer\\_protection/consumer\\_protection\\_cases/westwood\\_college\\_inc](http://www.coloradoattorneygeneral.gov/departments/consumer_protection/consumer_protection_cases/westwood_college_inc)

education companies in order to help those companies comply with the 90/10 rule, because for every dollar in GI Bill benefits it captures, a for-profit school can take in 9 more dollars in Title IV federal funding. Attorneys General have written to Congress in support of legislation that would close this apparent loophole and reduce the incentive to aggressively recruit servicemembers. However, until such time as Congress removes the incentive enticing for-profit schools to target servicemembers, Attorneys General should continue to be vigilant in trying to protect the military community from misleading and deceptive business practices.

Below is an outline of deceptive acts or practices that education companies may use to victimize servicemembers, and may also be used to take advantage of the public at large.

## **Deceptive Business Practices by Certain Educational Institutions**

### **1. Representations about the Transferability of School Credits**

In order to be eligible to receive federal student financial aid under either Title IV or GI Bill, institutions of higher learning must be accredited. There are two types of accreditation: regional and national accreditation. Traditional public, community, and private non-profit institutions of higher learning are regionally accredited. Typically, for-profit educational institutions and trade schools are nationally accredited. The standards for regional and national accreditation differ significantly; as a result, credits earned at nationally accredited institutions are typically not accepted by regionally accredited institutions.

Attorneys General have received complaints from many students that they were misled by recruiters that credits earned at a for-profit institution would transfer to another institution. Under federal law, schools are required to provide a statement about the transferability of credits to other schools. Student handbooks that are distributed by for-profit colleges to prospective students often include a written explanation of the “transferability” of that particular college’s credits that simply states it is up to the “receiving” institution to determine whether it will accept another college’s credits. This written explanation is sometimes contradicted, however, by other representations. Training manuals and recruitment scripts may contain information about a school’s representations to prospective students regarding transferability.

### **2. Violation of Accreditor Standards**

The purpose of accreditors is to keep institutions accountable and push them to provide a quality education for each student. This perpetual effort to improve institutions makes it difficult for accreditors to set and enforce bright line standards. The Senate HELP Committee has warned that the accreditation process is subject to manipulation by institutions that value earnings over academics.

Accreditors of technical schools typically require institutions to meet certain minimum requirements with respect to retention rates, job placement rates, and maintenance of individual program accreditation. In some cases, the accreditor will place the institution on notice of continuing problems that may jeopardize accreditation. There are numerous national accreditors that typically accredit for-profit colleges, as listed below. In addition to these sources, other



information that may be helpful to an Attorney General's investigation can also be sought from the United States Department of Education and the state's educational licensing organization.

The national career-related accrediting organizations include:

Accrediting Bureau of Health Education Schools

*Website:* [www.abhes.org](http://www.abhes.org)

*Phone:* (703) 917-9503

*Email:* [info@abhes.org](mailto:info@abhes.org)

Accrediting Council for Continuing Education & Training

*Website:* [www.accet.org](http://www.accet.org)

*Phone:* (202) 955-1113

*Email:* [info@acct.org](mailto:info@acct.org)

Accrediting Commission for Career Schools & Colleges

*Website:* [www.accsc.org](http://www.accsc.org)

*Phone:* (703) 247-4212

Accrediting Council for Independent Colleges and Schools –

*Website:* [www.acics.org](http://www.acics.org)

*Phone:* (202) 336-6780

*Email:* [info@acics.org](mailto:info@acics.org)

Council on Occupational Education

*Website:* [www.council.org](http://www.council.org)

*Phone:* (770) 396-3898

Distance Education Training Council

*Website:* [www.detc.org](http://www.detc.org)

*Phone:* (202) 234-5100

National Accrediting Commission of Career Arts & Sciences

*Website:* [www.naccas.org](http://www.naccas.org)

*Phone:* (703) 600-7600

### 3. **Representations about Job Placement Rates**

An institution's job-placement rate reflects the percentage of students who find work related to their area of study after graduation. Many students who enroll at for-profit colleges are seeking to obtain the training required to qualify for a higher-paying, higher-skill job and career. Because of the higher tuition rates often charged by for-profit colleges, it is important that the graduate be able to obtain employment at a pay rate that allows for repayment of student loans.

Attorneys General have heard a number of complaints about the advertisement of inflated “placement rates.” The Senate HELP Committee discovered that many for-profit colleges use tactics that mislead prospective students about the job placement rate for graduates in specific programs. In some cases brought by state Attorneys General, it appears that the for-profit college publicly advertises job placement rates that significantly exceed the placement rates the college reports to its own accreditor. The Committee also concluded that “[s]tudents who attend for profit schools are more likely to experience unemployment after leaving school.” According to a study by the National Center for Education Statistics, 23% of individuals who completed a for-profit college education between 2008 and 2009 were unemployed.

#### **4. Representations about Student Financial Aid**

Significant amounts of federal financial aid are available to servicemembers who desire an education. Even so, that aid may not cover the entire cost of tuition. The Senate HELP Committee’s investigation showed that some recruiters misled or lied to veterans about the amount of tuition that would be covered by military benefits. If tuition is not completely covered by a veteran’s military benefits, then he/she must either borrow money or pay for it out of pocket. These loans often come with very high interest rates.

An institution must be approved with the Department of Veterans Affairs before financial disbursements will be sent by the VA to the institution. Institutions may be researched on the VA website (<http://inquiry.vba.va.gov/weamspub/buildSearchInstitutionCriteria.do>).

#### **5. Representations about Programmatic Accreditation and Licensure**

Certain programs require an institution to have specific programmatic accreditation in order for students to qualify for jobs related to that program after graduation. Programmatic accreditation is required in addition to institutional accreditation. The HELP Committee discovered that some for-profit institutions do not adequately inform students of the institution’s programmatic accreditation. Lack of programmatic accreditation can act as a bar to employment in certain fields. The VA website identifies those programs to which veteran benefits may be applied. ([http://gibill.va.gov/gi\\_bill\\_info/ch33/yrp/yrp\\_list\\_2012.htm](http://gibill.va.gov/gi_bill_info/ch33/yrp/yrp_list_2012.htm)).

### **Student Loans<sup>96</sup>**

The cost of college continues to grow tremendously. Once a veteran decides to attend college, he or she must determine how to pay for it. While there are several sources of financial aid, including scholarships and grants that do not need to be paid back, one of the most popular and available options to finance a college education is a student loan. The largest provider of student loans is the U.S. Government. When anyone, including a veteran, obtains a federal student loan, the veteran will deal with the loan servicer, which could be a private company. Nevertheless, the lender is still the U.S. Government.

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<sup>96</sup> This section of the Toolkit on student financial aid were provided by the Minnesota Office of Attorney General and available at: <http://www.ag.state.mn.us/Consumer/Publications/StudentLoans.asp> and <http://www.ag.state.mn.us/Brochures/pubVeteranAndServiceMemberAssistance.pdf>.

## 1. **Federal Loans**

With the passage of the Student Aid and Fiscal Responsibility Act of 2010, all federal loans are now offered through the U.S. Department of Education and not through private institutions. Four major kinds of student loans are now being offered as part of the Federal Direct Loan Program:

### a. Stafford Loan

Subsidized - This is a low interest loan for which the government pays interest while the veteran is in school, during grace periods and during periods of deferment. To qualify, the veteran must demonstrate financial need.

Unsubsidized - This is a low interest loan for which the veteran pays all the interest, even during the grace period and periods of deferment but the veteran can defer these costs while in school. There is no financial need requirement.

### b. PLUS Loan

This is a low interest loan available to parents of undergraduate and graduate students and to graduate students. Interest is charged during all periods and loans require a credit check. Candidates should check availability criteria on these loans.

### c. Direct Consolidation Loan

Through this type of loan, all eligible federal loans can be consolidated into one loan after the borrower leaves school. Loans made to parents and those made directly to students cannot be consolidated.

## 2. **Other Student Loans**

### a. Perkins Loan

This low interest loan is available to students who demonstrate financial need. The federal government provides funds to individual colleges, which in turn act as the lender to the students.

### b. Private or Alternative Loans

Private loans are offered by private lenders such as banks and other financial institutions and eligibility often depends on the veteran's credit score. Private loans are generally more expensive than loans offered by the federal government and may have fewer repayment options. These loans should be sought last by veterans after they have exhausted other avenues of

financial aid especially veterans' benefits, scholarships, and low interest or interest-deferred loans.

### c. State Loans

Many states have long-term, low interest educational loans available from the Higher Education Assistance organizations in individual states. Students may need to demonstrate financial need. A student should consult the educational authority in their state after they have exhausted all veterans' educational benefits.

### **Before the Veteran Applies**

Before the veteran applies for a loan, he or she needs to know how much the total cost will be (tuition, room, board, and fees, etc.). "Total cost of attendance" is the term of art used by higher educational institutions. Veterans can obtain this information from the educational institution that they plan to attend. They can also get information from the school's website, the financial aid office, or the admissions office. Information may also be available on the internet at college search websites.

Once a veteran determines the total costs, he/she should determine what financial resources are available. These may include scholarships, prepaid college savings plans, grants, personal savings and money from grants. Information on scholarships and grants can also be obtained from the internet, the school's financial aid office or the admissions office of the school. In addition, there may be local community organizations offering scholarships. All grants, scholarships and veterans' benefits should be exhausted before taking out a loan.

### **Applying for a Loan**

The first step in applying for a federal Stafford loan is filling out the Free Application for Federal Student Aid (FAFSA). The FAFSA is used by most two- and four-year colleges and universities and career schools to award federal student aid. It is also used to determine eligibility for federal work study programs and grants, as well as by many state agencies.

The veteran may complete the FAFSA online or download a PDF version at [www.fafsa.gov](http://www.fafsa.gov). Paper copies of the FAFSA can be obtained by calling the Federal Student Aid Information Center at 800-433-3243, or from the veteran's school financial aid office. Parents applying for a PLUS loan need to fill out a separate application which is available from the veteran's school financial aid office.

### **Receiving A Loan**

After the veteran's school has completed its evaluation of the FAFSA, the financial aid office will put together a financial aid package and send the veteran an award letter. The package may include work study, grants, scholarships, and loans. The veteran should carefully review the award letter to determine what type of loan he or she is getting. Make sure the veteran understand the terms and conditions of the loan such as the interest rate and repayment amounts.

The veteran doesn't have to accept the full amount of the financial aid award. In fact, the veteran should try to borrow the lowest amount that will cover the veteran's costs and still allow the veteran to be able to repay the loan. The final step is to sign a promissory note, after which the veteran is legally obligated to repay the loan.

### **Repaying A Student Loan**

When the veteran signs the legally binding promissory note, the veteran agrees to repay the loan according to its terms. The veteran will be responsible for repaying the loan even if he or she quits school, can't find a job, or is dissatisfied with the education received. Repayment should begin immediately after graduation or within the six month grace period, as applicable to the individual situation.

The Consumer Financial Protection Bureau has created a website that helps explain repayment options for a student loan: <http://www.consumerfinance.gov/students/repay/>.

Some veterans may find it difficult to keep up with the payments. If there is a problem with ability to pay, the veteran should contact the loan servicer immediately because missed payments could send the loan into default. There are several options that may be available to the veteran, including:

#### **1. Changing the Repayment Plan**

The veteran may be able to extend the payments or make graduated payments. Extending the payments will result in lower monthly payments but the veteran may pay more in the long run because of the longer repayment period. Graduated repayment plans start out low and increase every two years. This option may be helpful if income is expected to increase.

#### **2. Income Based Repayment Plan**

Income Based Repayment (IBR) is a new payment option for federal student loans. It helps borrowers keep their loan payments affordable with payment caps based on income and family size. For most eligible borrowers, IBR loan payments will be less than 10% of their income and sometimes smaller. IBR will also forgive the remaining debt after 25 years of qualifying payments. IBR is available to federal student loan borrowers and covers most types of federal loans made to students, but not those made to parents. To determine whether the veteran is eligible for IBR, visit [www.IBRinfo.org](http://www.IBRinfo.org).

#### **3. Consolidating A Loan**

If the veteran has multiple loans, the veteran may consider a consolidation loan where the interest is the weighted average of all the loans being consolidated. While the payments may not be less, getting all of the veteran's loans into one payment can make it easier to keep track of the veteran's payments and where the veteran is in the payment cycle.

#### 4. Ask For A Deferment Or Forbearance

If the veteran is having trouble paying a student loan, work with the veteran's loan servicer or lender before the veteran defaults. Two other options include deferment and forbearance. Deferment is a legal right: the lender has to postpone payment if the veteran meets the criteria for deferment. Reasons for deferment might include going back to school, or the birth of a child. Forbearance is when the veteran asks the lender for a temporary break in payments, or a reduction in payments. The lender may grant the veteran's request for forbearance, but the lender is not obligated to do so. Either of these options may buy the veteran a little time to get his or her finances in better order. However, the veteran still owes the money that was borrowed and when the deferment or forbearance ends, the veteran will need to resume payments.

#### **Cancelling A Loan**

Under certain specific circumstances, the veteran may be able to have all or part of the student loan cancelled. Contact the veteran's loan servicer to determine the veteran's eligibility. Examples include:

##### 1. Total and Permanent Disability

The student loan may be cancelled for total and permanent disability if the veteran is unable to work and the condition has lasted or is expected to last for a continuous period of six months.

##### 2. Loan Forgiveness for Teachers

If the veteran is a teacher and also a new borrower and has been teaching full-time for five years in a low-income elementary or secondary school or educational service agency, the veteran may be able to have as much as \$17,500 of the veteran's subsidized or unsubsidized loan cancelled.

##### 3. Public Service Loan Forgiveness

Public Service Loan Service Forgiveness is a new program for federal student loan borrowers who work in certain kinds of jobs. It will forgive remaining debt after 10 years of eligible employment and qualifying loan payments. The program is available to people who work in a wide range of public service jobs, including jobs in government and nonprofit 501(c) organizations. Eligible jobs include employment by federal, state, local or tribal government, nonprofit tax exempt organizations, full-time service in AmeriCorps or Peace Corp positions. Other loan forgiveness options may be considered on a case by case basis. Only direct loans or other loans consolidated into a direct loan are eligible for this program.

##### 4. Bankruptcy

Student loans are generally not dischargeable in bankruptcy.

### **What if the Veteran Defaults?**

If the veteran defaults on the student loan, the lender may take action to recover the money. The lender may garnish the veteran's wages, seize the veteran's tax refunds, and deny future requests for federal student aid. In addition, a default will generally be reported to credit bureaus, and remain on the veteran's credit report for seven years. This will hurt the veteran's chances to obtain other credit.

If the veteran has defaulted on a student loan, two options may be available. First, the veteran may try to rehabilitate the student loan. If the veteran successfully rehabilitates the loan, the default notation will be removed from the veteran's credit report. To rehabilitate a Direct Loan, the veteran must make 12 consecutive monthly payments. To rehabilitate a Federal Family Education Loan (FFEL), the veteran must make 12 payments.

Second, the veteran may consider consolidating a defaulted loan. Consolidation helps the veteran combine one or more loans into a new loan. To do this, the veteran must make a "satisfactory repayment agreement" – which usually consists of three consecutive monthly payments – with the prior lender.

For help and more information, contact these agencies:

United States Department of Education  
Federal Student Aid Information Center  
P.O. Box 84  
Washington, DC 20044  
1-800-433-3243  
[www.ed.gov](http://www.ed.gov)

Federal Student Aid Information Center  
800-433-3243  
800-730-8913 (TTY)  
319-337-5665 (Please note: this is not a toll free number)

## **CHARITIES**

Scammers may try to use the popularity of military servicemembers or the significance of Memorial Day or Veterans Day to ramp up efforts to prey on members of the military, veterans and their supporters. While many Americans take time to remember the men and women who gave the ultimate sacrifice, fraudsters can prey on that sentiment in an effort to defraud servicemembers or the general public who support them.

It is important to remind your constituents who wish to donate to a charity benefiting veterans or their families that they should try to make sure their money will be used for legitimately charitable purpose. Consumers should be encouraged to research reputable charities and directly contact any organization they are interested in before making a donation.

The Internal Revenue Service's [website](#) – which maintains a list of organizations eligible to receive tax-deductible charitable contributions – can be a great resource for your constituents and your office. Several independent organizations have compiled financial information on charities, especially those that conduct nationwide solicitation campaigns, which can provide information on how much the charity spends on administrative expenses, fundraising, programs, and services. For a list of these organizations, visit the “Charities and Donors” pages available at various Attorneys General’s websites.

There are some helpful guidelines that you can share with your constituents if they are contacted or visited by a charity solicitor:

- Ask the person for written information on the charitable organization, including the charity’s name, address, telephone number, mission, and details on how the donation will be used;
- Watch out for charities with similar sounding names. To scam consumers, some unscrupulous charities deliberately use names that are very similar to those of respected organizations;
- Be suspicious if the solicitor or an invoice in the mail thanks the individual for making a pledge that was not made. If there is any doubt about whether a consumer has made a pledge to a charity, they should be encouraged to verify their records;
- Check to see if there is a right to cancel a pledge prior to making a contribution under state law; and
- Consumers should always make contributions by check and payable to the charitable organization, not to the individual solicitor.

## **IDENTITY THEFT**

Servicemembers can also be the victims of identity theft. Fortunately, a credit report can be a great tool for spotting this kind of scam. A free credit report is available to consumers annually at <http://www.annualcreditreport.com>. Information on a credit report that a consumer is not familiar with could be a sign that identity theft has occurred. Servicemembers should be informed that if they believe they have been a victim of identity theft, they should contact the Federal Trade Commission (FTC) at <http://www.consumer.ftc.gov>, or the State Attorney General’s Office

Another tool available to servicemembers who have been victims of identity theft is a credit freeze. Placing a freeze on credit reports can block an identity thief from opening a new account or obtaining credit in a victim’s name. A credit freeze keeps new creditors from accessing a credit report without permission. If a credit freeze is activated, an identity thief cannot take out new credit in someone else’s name, even if the thief has a Social Security number or other



personal information. Credit bureaus charge between \$5 and \$12 fee to place a security freeze depending on the state. You should check your state's security freeze law for payment guidelines.

To place a freeze, an individual should either use each credit agency's online process or send a letter by certified mail to each of the three credit agencies:

Equifax Security Freeze  
P.O. Box 105788  
Atlanta, GA 30348  
[www.Equifax.com](http://www.Equifax.com)

Experian Security Freeze  
P.O. Box 9554  
Allen, TX 75013  
[www.Experian.com](http://www.Experian.com)

Trans Union Security Freeze  
P.O. Box 6790  
Fullerton, CA 92834-6790  
[www.TransUnion.com](http://www.TransUnion.com)

### **Active-Duty Alert**

An Active-Duty Alert is another way a servicemember can help protect his/her identity without cost. An Active-Duty Alert is placed on an individual's credit report to inform a business it is obtaining information from a servicemember away on active duty, and requires the business to first obtain permission from an authorized third party before proceeding. In this case, the third party may be a trusted family member, spouse, or friend.

An Active Duty Alert can be placed on a credit report by contacting one of the major credit reporting agencies: Experian, Equifax, and Trans Union. Once notified, that agency will contact the other two agencies to inform them of the alert.

Alerts are effective for one year, and must be renewed annually. Once initiated, an Active-Duty alert can be canceled at any time.

### Contact Information

1 (800) 680-7289 Trans Union  
1 (800) 525-6285 Equifax  
1 (888) 397-3742 Experian

## VA-RELATED SCAMS

### **“Bait and Switch” Annuities and Trust Marketing**

A continuing national disgrace is playing out in the various states of the union: the targeting of elderly veterans in what often amounts to a basic “bait and switch.” Under deceptive claims of free help, unqualified individuals spread out across the country offering to make presentations to senior citizen veterans about how they may qualify for certain benefits administered by the VA. More specifically, the presentations generally focus on the VA pension program, a legitimate VA program that provides monthly benefit payments to certain wartime veterans with financial need, and their survivors.

Such presenters will make use of techniques of affinity marketing by expressing their love of country and the military and claiming connections to organizations with names that might include words like “veterans” or “American.” They will claim that nobody hears from the VA about the pension program, and that there is nobody available to assist. At such events, such presenters particularly zero in on the issue of a supplement pension benefit which is known commonly (and mistakenly) as the “Aid and Attendance Benefit” with over-simplified picture of eligibility. This is the bait.

The goal of this scam artists is not to help veterans, but to identify those veterans in a given audience whose total net estates are in excess of what federal regulations allow for entitlement to “the Non-Service Connected Pension.”<sup>97</sup> The switch is that the presenters are not accredited (a fact they likely never discuss), as required by federal regulation, to assist with making claims, but are financial planners and insurance agents. They are looking to entice veterans with certain assets to believe they, too, are entitled to the benefit, only to turn around and focus on selling them insurance annuities and, occasionally, related irrevocable trust agreements. By all reports, they work on substantial commissions that may easily be in the five digits on a given sale.

Below are some basic questions and answers about VA pension benefits and “bait and switch” annuity marketing.

#### **Q: How does the VA administer Pension Benefits?**

The Department of Veterans Affairs is really an agency made up of multiple agencies including the Veterans Health Administration (VHA), the Veterans Benefits Administration, and the National Cemetery Administration. In this discussion, when we refer to the VA, we are really referring to the Veterans Benefits Administration (VBA). The VBA administers the payment of two broad categories of benefits to eligible veterans: disability compensation and pension benefits.<sup>98</sup> Service-connected disability compensation is a monthly payment made to a veteran the VA has determined has a disability that occurred as a direct consequence of their active duty

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<sup>97</sup> See, generally, U.S. Senate Special Committee on Aging, June 2012 hearings. Video available at [www.senate.gov/fplayers/jw57/commMP4Player.cfm?fn=aging060612&st=1194&dur=0](http://www.senate.gov/fplayers/jw57/commMP4Player.cfm?fn=aging060612&st=1194&dur=0).

<sup>98</sup> Service-Connected Disability Compensation is governed by 38 U.S.C., Part II, Chapter 11; Non-service-connected disability pensions are governed by 38 U.S.C., Part II, Chapter 15.

federal service or has a pre-existing condition aggravated by active duty service.<sup>99</sup> For those claims deemed substantiated, the VA determines a disability rating (0-100%) which in turn sets the level of compensation.

#### **Q: What Are Pension Benefits?**

Pensions, on the other hand, do not involve proof of a service-connected disability. The pension benefit is a need-based benefit paid to a wartime veteran and his/her survivors.<sup>100</sup> Generally, eligibility is based on the following:

- **No Dishonorable Discharges.** Discharged from service under other than dishonorable conditions;
- **Minimal Active, Wartime Service.** Service 90 days or more in the active military with at least one day during a period of war;
- **Qualifying Income Below Maximum Pay-out Amount:** His/her countable income is below the maximum annual pension rate;
- **Net Worth Limitations:** He/she meets the net worth limitation;
- **Senior in age or effectively disabled in one of three ways:**

He/she is 65 or older

OR

He/she is

- Has a permanent and total non-service-connected disability, OR
- Is a patient in a nursing home, OR
- Is receiving Social Security Disability Benefits

- Veterans who entered active duty after September 7, 1980, must also have served at least 24 months of active duty service. If the total length of service is less than 24 months, the Veteran must have completed his/her entire tour of active duty.

#### **Q: Can One Qualify for More Money Than the Basic Pension Benefit? (Enhanced pension benefits)**

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<sup>99</sup> 38 CFR 3.4

<sup>100</sup> Technically, the VA administers three pension programs. Practically, we generally speak of only one, the only one for which current applicants may apply. The majority of the nearly 516,000 beneficiaries of a VA pension belong to the program known as Improved Pension, which was established by Congress back in 1979. The VA's other pension programs, Old-Law and Section 306 Pension, have less than 26,000 beneficiaries combined and are closed to new applicants. From the start, the VA's Improved Pension program has been designed to provide economic security to financially disadvantaged wartime Veterans and their survivors by paying pension benefits quickly and without the extensive development often required with VA's disability compensation program.

A veteran, who qualifies for a VA pension, may additionally qualify under one of two programs for an increased monthly pension payment. The first enhanced pension payment is known as Aid and Attendance (A&A). A person already eligible for a VA pension may qualify for A&A if he or she meets one of the following criteria:

**Need help with basic living tasks:** You require the aid of another person in order to perform activities of daily living, such as bathing, feeding, dressing, toileting, adjusting prosthetic devices, or protecting yourself from the hazards of your daily environment, OR

**You are bedridden:** Your disability or disabilities require that you remain in bed apart from any prescribed course of convalescence or treatment, OR

**Incapacitated Nursing Home Resident:** You are a patient in a nursing home due to mental or physical incapacity, OR

**Substantially Impaired Vision:** You have corrected visual acuity of 5/200 or less in both eyes, or concentric contraction of the visual field to 5 degrees or less.<sup>101</sup>

The second enhanced pension payment is known as Housebound. A person already eligible for a VA pension may qualify for the Housebound increased monthly payment if he or she meets one of the following criteria:

You have a single permanent disability evaluated as 100-percent disabling AND, due to a disability or disabilities, you are permanently and substantially confined to your immediate premises, OR

You have a single permanent disability evaluated as 100-percent disabling AND another disability or disabilities, independently evaluated as 60-percent or more disabling.<sup>102</sup>

#### **Q: Why do the Fraudulent Presenters Limit Themselves to Pension Benefit Claims?**

The fraudulent presenters of these “seminars” are only interested in assisting veterans who may be pension eligible. They are not interested in helping veterans with service-connected disability claims for one simple reason: eligibility for compensation benefits has nothing to do with the veteran’s financial position.

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<sup>101</sup> Department of Veterans Affairs, “What Veterans and Their Families Should Know When Applying for Department of Veterans Affairs (VA) Pension Benefits.”

<sup>102</sup> *Id.*

This targeting decision means that from the outset the presenters are only interested in a small subset of any given audience. Consider that there are 350,000 veterans receiving pensions, but over 3.5 million receiving compensation. Thus, the presenters are interested in only approximately 10% of the veterans out there.

### **Q: What Harm Can These Pitches Do?**

Some of the harm that may be caused by the over-200 organizations that sponsor such pitches is<sup>103</sup>:

- Effectively charging high fees for the service (directly or indirectly) of filing a pension claim that is commonly offered for free by various accredited governmental employees or veterans service officers;
- Enticing elderly veterans to invest in annuities that may not be suitable for the elderly who might not be able to access their money within their expected lifetime (or face high early withdrawal penalties);
- Potentially rendering veterans ineligible for Medicaid for a period of time;
- Charging of fees for establishment of trusts (the creation of which may be performed under dubious ethical and legal circumstances);
- Failing to provide advice and guidance in maintaining proper eligibility status by failing to inform a veteran of the annual reporting requirement;
- Damaging other viable options under VA regulations. A white paper by The Center for Elder Veterans Rights, PC, provides the following example: Assume a veteran receives disability compensation for a 60% disability rating. However, due to increasing disability for the service-connected health issue, the veteran is no longer able to work (age does not matter). In the case this veteran had any assets, the pitchmen would likely try to steer him or her into a VA pension. However, instead of applying for a pension and being enticed to disgorge assets, the veteran might qualify to establish individual unemployability which could raise his or her disability rating to 100%. This, in turn, could allow the veteran access to additional special benefits, possibly double the amount.<sup>104</sup>
- Unnecessarily advising disgorging of assets where other routes to qualification exist: Again, in the above-cited white paper, the example is given of a veteran who has over \$112,000 in a money market account. This exceeds the federal regulation concerning “limited net worth.”<sup>105</sup> A scammer may recommend establishing a trust or purchasing an annuity even though there may be another answer: add two other names to the money market account and thereby dilute ownership. Only a third of the balance in such a case would be attributed to the veteran.<sup>106</sup>

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<sup>103</sup> U.S. Government Accountability Office, Veterans’ Pension Benefits: Improvements Needed to Ensure Only Qualified Veterans and Survivors Receive Benefits, GAO-12-540, May 2012.

<sup>104</sup> The Center for Elder Veterans Rights, P.C., “Recognizing and Defeating VA Disability Benefit Scams.” August 30, 2010 (Revised January 10, 2011).

<sup>105</sup> 38 C.F.R. 3.3.

<sup>106</sup> VA Disability Benefit Scams, supra.

### **Deferred Rent Arrangements (Residential Care Facilities)**

Another VA pension issue that has arisen nationwide relates to the interaction of assisted-living facilities (ALFs) with potential residents and the application for pension benefits. One scenario is an ALF will offer an individual applying to live at the ALF to defer rent on the residential contract while the resident, a veteran or survivor of a veteran, waits on the award of that pension from the VA. A contract might state, for example, that as long as the resident provides the facility with current status information about his or her pending VA pension claim, the ALF will continue to defer monthly rent payments.<sup>107</sup>

The practice, by itself, is not necessarily illegal, but may quickly become an opportunity for shady business practices in two ways: the first way is by getting a potential resident to sign a contract under the assurance that the VA will award a pension; the second unfair practice is assuring the potential resident that the ALF can get the pension claim processed quickly. However troubling these scenarios are, the VA views this type of problem as a consumer enforcement action outside the VA's jurisdiction.<sup>108</sup>

### **Questionable Medical Expenses (Residential Care Facilities)**

Not far removed from the issue of deferred rent, is the issue of what costs of living at a facility qualify as medical expenses that may serve as valid deductions against income in order to establishing eligibility (i.e., to establish need) for a VA pension. A veteran or survivor demonstrates a need to be in a protected residential environment either through certification by a physician or by a VA award of pension (determination of financial need) at the enhanced benefit Aid and Attendance or Housebound rate.

There have been questionable cases of trying to push the envelope on what is an unreimbursed medical expense (UME) that would qualify as a deduction against income for pension eligibility purposes.<sup>109</sup> In particular, there have been attempts to push through the cost of room and board at a facility as deductible medical expenses. Attempts have successfully been made to claim merely the room and board at senior living facilities, not assisted living facilities, as a UME. The VA has now attempted to clarify its position on this matter and limit perceived past inconsistencies in awards (if not abuses).

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<sup>107</sup> Statement of David R. McLenachen, Director, Pension and Fiduciary Service Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), Before the Senate Special Committee on Aging, June 6, 2012.

<sup>108</sup> An attorney or agent with VA accreditation who were to make such promises might be subject to the suspension or cancellation of accreditation by the VA.

<sup>109</sup> 38 C.F.R. §3.272(g). The VA (VBA) interprets this deduction in its Adjudication Procedures Manual, M21-1MR, as the unreimbursed cost of medical and nursing services. See VA Fast Letter, 12-23, October 26, 2012.

## **SECTION THREE: THE LAW**

## Overview

State law and federal law -- and sometimes both -- have provisions designed to combat the fraudulent practices of those that prey on servicemembers and their families. This section summarizes several provisions of law that may be applicable.

## FEDERAL LAW

There are several provisions of federal law of which to be aware when dealing with a complaint from a servicemember. In section X below, points of contact are listed for federal agencies that have authority for enforcing these areas of law.

### *Servicemembers Civil Relief Act [SCRA] (50 U.S.C. App. § 501 et seq.)*

**What is the SCRA?** The SCRA is a federal law designed to promote and protect those who volunteer to serve our country during times of active duty service by providing a list of legal consumer protections that shield servicemembers from undue legal and financial hardships. Protections of the Act that benefit reserve component servicemembers are summarized further below.

**In what types of proceedings is the SCRA enforceable?** The SCRA is enforceable in federal and state court (including all political subdivisions and in all U.S. territories) and it applies to civil and administrative actions, but not to criminal cases.

**Who is covered under the SCRA?** The SCRA applies to members of the Uniformed Services when on active duty, including the reserves of all five branches of the Armed Forces when on active duty (the SCRA is not applicable to inactive duty status, such as weekend drills). This coverage of the reserve component includes National Guard members only when on federal active duty status or when active under Title 32 for more than 30 days in response to a presidential declaration of national emergency. Reserve component servicemembers are entitled to most of the Act's "rights and protections" on the date they receive active duty orders. (Thus, the sooner servicemembers receive their orders in advance of actual mobilization, the better.) Coverage normally ends at Release from Active Duty (REFRAD).

**"Material effect" and "waiver" under the SCRA.** Many of the provisions of the SCRA require that the servicemember show there is a "material effect" on his/her ability to respond or act as normally required due to the active duty service. The rights of the SCRA can be individually waived if done so in a separate writing. A servicemember should always be counseled to seek legal advice before any such waiver.

**What are the Enforcement Provisions under the SCRA?** The U.S. Attorney General has (1) civil enforcement authority under the Act where there is a pattern or practice of violations or where there is a significant public interest, and (2) criminal enforcement authority in certain instances. The SCRA also provides for a private right of action generally allowing for all legal remedies available in any civil lawsuit and the right to seek attorneys' fees.



Provisions of the SCRA that commonly apply to mobilizing reserve component servicemembers:

- **Default judgment protection.** A servicemember has the right (up to 90 days after REFRAD) to reopen a default judgment taken against him or her during active duty or within 60 days after active duty.
- **Stays of civil and administrative proceedings.** A servicemember may ask for a postponement of any court action (lawsuit) or administrative proceeding for not less than 90 days if he/she is on active duty or within 90 days after REFRAD. To exercise the right, the servicemember must send a 'letter or other communication' to the court/hearing officer asserting his/her military service materially affects his/her ability to appear. The servicemember must state when he/she would be available and must include a letter from his/her commander that confirms the servicemember's current military duty prevents making an appearance and that leave is not authorized.
- **Extensions on time limits for filing lawsuits (i.e., tolling of given statutes of limitations).** A servicemember may obtain extensions, without showing material effect, for everything except federal revenue matters.
- **Eviction proceeding stays.** The SCRA does not prohibit the eviction of a servicemember, but requires the landlord to obtain a court order (for rentals not exceeding \$2,975.54 monthly in January 2011, adjusted annually thereafter for inflation). The servicemember or servicemember's family member may seek a stay up to 90 days upon a showing of material effect.
- **Mortgage protections.** If a servicemember breaks his/her mortgage agreement on real property purchased before entry on active duty, the SCRA protects the servicemember by allowing foreclosure only by court order or waiver. This protection lasts during the time on active duty plus 9 months. (The additional 9 months of protections sunset on December 31, 2012.) Alternatively, upon showing of material effect, a servicemember may seek a stay of foreclosure and/or equitable adjustment.
- **Residential lease termination rights.** A servicemember may terminate real property leases (residential, professional, business, agricultural, etc.) if the given lease was executed before entry on active duty, or if executed on active duty, the servicemember then receives PCS orders or orders to deploy for 90 days or more. The servicemember must provide written notice of termination and a copy of his/her orders.
- **Automobile lease termination rights.** A servicemember may terminate an automobile lease if the given lease was executed before entry on active duty and he/she then receives orders to active duty for 180 days or more, or if executed on active duty, the servicemember then receives PCS orders from inside to outside CONUS or from Alaska or Hawaii to anywhere else. He/she may also end the lease executed on active duty if he/she subsequently receives orders to deploy for 180 days or more. The servicemember must return the vehicle within 15 days of giving notice.

- **Cellular telephone contract termination rights.** A servicemember may terminate or suspend a cellular telephone contract if the servicemember receives orders to relocate for 90 days or more to a place where there is no cell phone coverage under the contract. The servicemember must give written or electronic notice of termination with a copy of the servicemember's orders. Family plans may be cancelled if the family moves with the servicemember.
- **Six Percent Interest Cap on Consumer Debt during Active Duty.** A servicemember may reduce interest on pre-active duty debts to 6%. For mortgages, the protection lasts one year beyond REFRAD. The protection lasts only during active duty itself for all other obligations (including, since August 15, 2008, student loans). The interest above 6% is forgiven, not deferred, and periodic payments must be lowered to account for such forgiven interest. To exercise the right, the servicemember must provide written notice and a copy of his orders no later than 180 days after REFRAD.

### ***Military Lending Act [MLA](10 U.S.C. § 987)***

The Military Lending Act (MLA)<sup>110</sup> was enacted as part of the John Warner National Defense Authorization Act of 2007. This Act seeks to protect active-duty servicemembers, reservists, and their dependents from excessive rates and fees for certain lending products. Specifically, the MLA's implementing regulations single out payday loans, car title loans, and refund anticipation loans for extra restrictions when they are extended to servicemembers. These credit products are subject to an inclusive 36% rate cap, which includes some fees and charges. Additionally, the MLA provides several prohibitions for these loans, including bans on refinancing, mandatory arbitration clauses, securing a loan with a personal check or bank account access, requiring repayment through military allotment, and prepayment penalties.

Recent amendments to the MLA grant additional enforcement authority to several federal agencies, including the CFPB, the SEC, and the FDIC. The amendments also provide for civil penalties, in addition to criminal liability, for those who violate the provisions of the Act. The MLA does not preempt state laws that provide greater protection to servicemembers for these types of loans. Some states have passed legislation that expressly authorizes state agencies to enforce the terms of this Act.<sup>111</sup>

### ***Federal Trade Commission Act [FTCA](15 U.S.C. §§ 41-58)***

15 U.S.C. § 45(a)(1): "Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful."

Under this Act, the FTC is empowered, among other things, to (a) prevent unfair methods of competition, and unfair or deceptive acts or practices in or affecting commerce; (b) seek monetary redress and other relief for conduct injurious to consumers; (c) prescribe trade regulation rules defining with specificity acts or practices that are unfair or deceptive, and establishing requirements designed to prevent such acts or practices; (d) conduct investigations

<sup>110</sup> 10 U.S.C. § 987 (2013); for more information on the MLA and its application, see Lending section, *supra* p. 7-9.

<sup>111</sup> See State Statutes that Address Military Lending Act, *infra* p. 54-56.

relating to the organization, business, practices, and management of entities engaged in commerce; and (e) make reports and legislative recommendations to Congress.

CPB is responsible for civil and criminal actions brought under the FTC Act. These cases generally fall into three categories: (1) enforcement actions for civil penalties and injunctive relief based on violations of final orders issued by the FTC; (2) enforcement actions for civil penalties and injunctive relief based on violations of FTC trade regulation rules; and (3) prosecutions for criminal violations of the FTC Act, and for violations of district court orders obtained under the FTC Act.

***Fair Debt Collection Practices Act [FDCPA](15 U.S.C. § 1692-1692p).***

The Fair Debt Collection Practices Act (“FDCPA”) prohibits third-party debt collectors from employing deceptive or abusive conduct in the collection of consumer debts incurred for personal, family, or household purposes. (The term “debt collector” generally does not cover creditors collecting their own debts). Such collectors may not, for example, contact debtors at odd hours, subject them to repeated telephone calls, threaten legal action that is not actually contemplated, or reveal to other persons the existence of debts. The Civil Division’s Consumer Protection Branch enforces violations of the FDCPA, which are treated as unfair or deceptive acts or practices in violation of the FTC Act.

Among the Act’s provisions:

- A debt collector may not contact a consumer at inconvenient times or places, such as before 8 am or after 9 pm, unless the consumer agrees to it. And collectors may not contact consumers at work if they’re told (orally or in writing) that the consumer is not allowed to get calls there.
- Once a collector receives written notice, they may not contact the consumer again except to tell the consumer there will be no further contact or to let the consumer know that they or the creditor intend to take a specific action, like filing a lawsuit.
- If an attorney represents a consumer with respect to a debt, the debt collector must contact the attorney, rather than the consumer. If the consumer does not have an attorney, a collector may contact other people – but only to find out the consumer’s address, home phone number, and place of employment. Collectors usually are prohibited from contacting third parties more than once. Other than to obtain location information, a debt collector generally is not permitted to discuss a consumer’s debt with anyone other than the consumer, their spouse, or their attorney.

Debt collectors may not:

- Use threats of violence or harm;
- Publish a list of names of people who refuse to pay their debts;
- Use obscene or profane language;
- Repeatedly use the phone to annoy someone;
- Falsely claim that they are attorneys or government representatives;

- Falsely claim that a consumer has committed a crime;
- Falsely represent that they operate or work for a credit reporting company;
- Misrepresent the amount owed;
- Indicate that papers they send are legal forms if they aren't;
- Indicate that papers they send are not legal forms if they are;
- Threaten a consumer with be arrest if he or she doesn't pay the debt;
- Threaten to seize, garnish, attach, or sell a consumer's property or wages unless they are permitted by law to take the action and intend to do so;
- Threaten legal action against the consumer, if doing so would be illegal or if they do not intend to take the action;
- Give false credit information about the consumer to anyone, including a credit reporting company;
- Send anything that looks like an official document from a court or government agency if it isn't;
- Use a false company name;
- Try to collect any interest, fee, or other charge on top of the amount owed unless the contract that created the debt – or state law – allows the charge.

***Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. §§ 6101 et seq.)***

The Telemarketing and Consumer Fraud and Abuse Prevention Act directed the FTC to prescribe rules to prohibit abusive telemarketing practices. Violations of the resulting Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, are treated as violations of the FTC Act.

The Civil Division's Consumer Protection Branch enforces the TSR, which contains an extensive array of consumer protection provisions, including the following:

- The TSR established the National Do Not Call Registry, which telemarketers are required to search every 31 days and avoid calling any phone numbers that are on the registry. Calls from or on behalf of political organizations, charities and telephone surveyors are still permitted, as are calls from organizations with which a consumer has an established business relationship, or to which a consumer has made an inquiry or submitted an application. A telemarketer who disregards the National Do Not Call Registry could be fined up to \$16,000 for each call.
- Calling times are restricted to the hours between 8 a.m. and 9 p.m.
- Telemarketers must promptly disclose the identity of the seller or charitable organization and that the call is a sales call or a charitable solicitation.
- Telemarketers must disclose all material information about the goods or services they are offering and the terms of the sale and are prohibited from lying about any terms of their offer.
- Before submitting a consumer's billing information for payment, telemarketers must get their express informed consent to be charged — and to charge to a specific account.

- Telemarketers must connect their call to a sales representative within two seconds of the consumer's greeting and may not hang up on an unanswered call before 15 seconds or four rings. When the telemarketer doesn't have a representative standing by, a recorded message must play to let the consumer know who is calling and the number they are calling from.
- Telemarketers must transmit their telephone number and if possible, their name, to the consumer's caller ID service.
- Most businesses need written permission before they can call with prerecorded telemarketing messages, or robocalls. Businesses using robocalls have to disclose at the beginning of the message how consumers can stop future calls, and must provide an automated opt-out that can be activated by voice or keypress.

## Credit

The ***Truth in Lending Act*** (15 U.S.C. §§ 1601-1667f) requires all creditors who deal with consumers to make certain written disclosures concerning finance charges and related aspects of credit transactions (including disclosing an annual percentage rate). The Act also establishes a three-day right of rescission in certain transactions involving the establishment of a security interest in the consumer's residence (with certain exclusions, such as interests taken in connection with the purchase or initial construction of a dwelling) and establishes certain requirements for advertisers of credit terms.

The ***Fair Credit Billing Act*** (15 U.S.C. §§ 1666-1666j) amends the Truth in Lending Act to require prompt written acknowledgment of consumer billing complaints and investigation of billing errors by creditors. The amendment prohibits creditors from taking actions that adversely affect the consumer's credit standing until an investigation is completed, and affords other protection during disputes. The amendment also requires that creditors promptly post payments to the consumer's account, and either refund overpayments or credit them to the consumer's account.

The ***Equal Credit Opportunity Act*** (15 USC §§ 1691-1691f) requires that financial institutions and other firms engaged in the extension of credit make that credit equally available to all credit-worthy customers, and prohibits discrimination on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or good faith exercise of any rights under pertinent consumer credit statutes. The Act also requires creditors to provide applicants, upon request, with the reasons underlying decisions to deny credit. A violation of any requirement of the ECOA is treated as a violation of the FTC Act, and enforced in the same manner as if the violation had been a violation of an FTC trade regulation rule.

The ***Fair Credit Reporting Act*** (15 U.S.C. §§ 1681-1681x) requires consumer reporting agencies to adopt certain procedures relating to consumer credit, personnel, insurance, and other information to ensure the confidentiality, accuracy, reliability and proper verification of the information. Information in a consumer report cannot be provided to anyone who does not have a purpose specified in the Act, and companies that provide information to consumer reporting agencies also have specific legal obligations, including the duty to investigate disputed information. In addition, users of the information for credit, insurance, or employment purposes must notify the consumer when an adverse action is taken on the basis of such reports and must identify the company that provided the report, so that the accuracy and completeness of the report may be verified or contested by the consumer. Subsequent amendments to the Act give consumers the right to one free credit report a year from the credit reporting agencies, the ability to purchase for a reasonable fee a credit score along with information about how the credit score is calculated, and the ability to place fraud alerts in their credit files. A violation of any requirement or prohibition imposed under the FCRA is treated as a violation of the FTC Act.

### ***Credit Repair Organizations Act [CROA](15 U.S.C. § 1679 – 1679j)***

The Credit Repair Organizations Act (“CROA”) prohibits untrue or misleading representations and requires certain affirmative disclosures in the offering or sale of “credit repair” services. The Act bars “credit repair” companies from demanding advance payment, requires that “credit repair” contracts be in writing, and gives consumers certain contract cancellation rights.

The statute is aimed at schemes that promise to “repair” the credit of consumers by employing the verification provisions of the Fair Credit Reporting Act (FCRA) and that misrepresent the services a credit repair organization can provide. Common misrepresentations include claims that such organizations can remove negative items from credit reports due to alleged difficulties in the verification process. However, verification is usually automated, and most debts may remain on a consumer’s report for seven years, and bankruptcies for ten years. Thus, claims that most consumers can get such items removed from credit reports frequently violate CROA.

CROA also prohibits “file segregation” schemes, which are advertised as a way of creating a new credit identity. File segregation operators advise the consumer to apply to the IRS for an Employer Identification Number (“EIN”), and to use the EIN in lieu of their Social Security Number when applying for credit in order to create a completely new credit file in which the old debts will not appear. The scheme essentially involves an attempt to hide one’s identity from creditors and both the person selling such a scheme and consumers who follow the scheme are violating the law. CROA bars any person from making or counseling any consumer to make any untrue or misleading statement whose intended effect is to alter the consumer’s identification to hide accurate credit information.

A credit repair offer is likely a scam if those offering the services:

- Insist on payment before they do any work on the consumer’s behalf;
- Tell the consumer not to contact the credit reporting companies directly;
- Tell the consumer to dispute accurate information in their credit report;
- Tell the consumer to give false information on an applications for credit or a loan;
- Don’t explain the consumer’s legal rights when they tout their services.

### **Military Legal Assistance**

In each branch of the Armed Forces, legal assistance offices provide free legal consultation to eligible beneficiaries: typically active duty servicemembers, their spouses and dependent family members, and retirees. Military legal assistance offices are typically manned by service judge advocates, service-employed civilian attorneys, and paralegals. While the types of legal services provided vary from place to place and from service to service, they typically include wills, powers of attorney, landlord and tenant matters, other property law matters, divorce and separation, other domestic relations issues (custody, adoption, visitation, child welfare), and consumer law issues (fraud, sales contracts, credit agreements). Availability of services will be determined by availability of resources and other mission requirements that take priority over general legal assistance, like legal readiness of deploying Servicemembers.

The general authority for the provision of such legal services is based on federal statutory authority:

§ 1044. Legal assistance<sup>112</sup>

(a) Subject to the availability of legal staff resources, the Secretary concerned may provide legal assistance in connection with their personal civil legal affairs to the following persons:

(1) Members of the armed forces who are on active duty.

(2) Members and former members entitled to retired or retainer pay or equivalent pay.

(3) Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.

(4) Members of reserve components not covered by paragraph (1) or (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary), for a period of time (prescribed by the Secretary) that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty.

(5) Dependents of members and former members described in paragraphs (1), (2), (3), and (4).

(6) Survivors of a deceased member or former member described in paragraphs (1), (2), (3), and (4) who were dependents of the member or former member at the time of the death of the member or former member, except that the eligibility of such survivors shall be determined pursuant to regulations prescribed by the Secretary concerned.

(7) Civilian employees of the Federal Government serving in locations where legal assistance from non-military legal assistance providers is not reasonably available, except that the eligibility of civilian employees shall be determined pursuant to regulations prescribed by the Secretary concerned.

(b) Under such regulations as may be prescribed by the Secretary concerned, the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary is responsible for the establishment and supervision of legal assistance programs under this section.

(c) This section does not authorize legal counsel to be provided to represent a member or former member of the uniformed services described in subsection (a), or the dependent of such a member or former member, in a legal proceeding if the member or former member can afford legal fees for such representation without undue hardship.

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<sup>112</sup> 10 U.S.C. 1044 (2011).



(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

(3) In this subsection, the term “military legal assistance” includes—

(A) legal assistance provided under this section;  
And

(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, and 1044d of this title.

(e) The Secretary concerned shall define “dependent” for the purposes of this section.

The various branches then have their own implementing regulations/directives as authorized by the above. In the Army, Army Regulation 27-3 governs legal assistance. In the Navy and Marine Corps, JAGMAN, Chapter VII controls. In the Air Force, legal assistance is provided in accordance with AFI 51-504. In the Coast Guard, the applicable authority is COMMADANT INSTRUCTION 5801.4E.

## **STATE LAW**

### **TABLES OF STATE STATUTES**

Appended below are reference guides to various state consumer protection laws that will be useful in assistant servicemembers who are victims of fraud or other deceptive practices.

1. Lemon Laws and Unfair & Deceptive Acts and Practices Statutes.
2. Lemon Buyback Laws and Salvage Vehicle Laws.
3. Telemarketing and Debt Collection Statutes.

**Lemon Laws and Unfair & Deceptive Acts and Practices Statutes.**

<i>State Consumer Protection Laws Quick Reference I</i>		
STATE	LEMON LAW	UDAP STATUTE
Alabama	Ala. Code §§ 8-20A-1 to 8-20A-6	Ala. Code § 8-19-1 to 8-19-15
Alaska	Alaska Stat. §§ 45.45.300 to 45.45.360	Alaska Stat. § 45.50.471 to 45.50.561
Arizona	Ariz. Rev. Stat. Ann. § 44-1261 to 44-1267	Ariz. Rev. Stat. Ann. § 44-1521 to 44-1534
Arkansas	Ark. Code Ann. §§ 4-90-401 to 4-90-417	Ark. Code Ann. § 4-88-101 to 4-88-207
California	Cal. Civ. Code §§ 1793.1 to 1795.7, 1793.22 to 1793.26	Cal. Civ. Code § 1750 to 1785 Cal. Bus. & Prof. Code §§ 17200 to 17594
Colorado	Colo. Rev. Stat. §§ 42-10-101 to §§ 42-10-107, 12-6-120(1)(a), 12-6-122(2)	Colo. Rev. Stat. § 6-1-101 to 6-1-115
Connecticut	Conn. Gen. Stat. Ann. §§ 42-179 to 42-184	Conn. Gen. Stat. § 42-110a to 42-110g
Delaware	Del. Code Ann. tit. 6 §§ 5001 to 5009	Del. Code Ann. tit. 6 § 2511 to 2527, 2580 to 2584, & 2531 to 2536
District of Columbia	D.C. Code Ann. §§ 50-501 to 50-510	D.C. Code Ann. § 28-3901 to §§ 28-3913
Florida	Fla. Stat. Ann. § 681.10 to 681.118	Fla. Stat. Ann. § 501.201 to 501.213
Georgia	Ga. Code Ann. §§ 10-1-780 to 10-1-794	Ga. Code Ann. § 10-1-370 to 10-1-375, 10-1-390 to 10-1-407
Guam		5 Guam Code Ann. §§ 32101 to 32603
Hawaii	Haw. Rev. Stat. § 481I-1 to 481I-4	Haw. Rev. Stat. § 480-1 to 480-24 & 481A-1 to 481A-5
Idaho	Idaho Code §§ 48-901 to 48-913	Idaho Code § 48-601 to 48-619
Illinois	815 Ill. Comp. Stat. §§ 380/1 to 380/8	815 Ill. Comp. Stat. 505/1 to 505/12 & 510/1 to 510/7
Indiana	Ind. Code §§ 24-5-13-1 to 24-5-13-24	Ind. Code Ann. § 24-5-0.5-1 to 24-5-0.5-12
Iowa	Iowa Code Ann. §§ 322G.1 to 322G.15	Iowa Code Ann. § 714.16 to 714.16A
Kansas	Kan. Code Ann. §§ 50-645 to 50-646	Kan. Stat. Ann. § 50-623 to 50-640 & 50-675a to 50-679a

<i>State Consumer Protection Laws Quick Reference I</i>		
STATE	LEMON LAW	UDAP STATUTE
Kentucky	Ky. Rev. Stat. Ann. §§ 367.840 to 367.845; 367.860 to 387.870	Ky. Rev. Stat. § 367.110 to 367.990
Louisiana	La. Rev. Stat. Ann. §§ 51:1941 to 51:1948	La. Rev. Stat. Ann. § 51:1401 to 51:1420
Maine	Me. Rev. Stat. Ann. tit. 10 §§ 1161 to 1169	Me. Rev. Stat. Ann. tit. 5 § 205A to 214 & tit. 10 § 1211 to 1216
Maryland	Md. Code Ann. Com. Law §§ 14-1501 to 14-1504	Md. Code Ann. Com. Law §§ 13-101 to 13-501 & 14-101 to 14-3202
Massachusetts	Mass. Gen. Laws Ann. ch. 90 § 7N½	Mass. Gen. Laws Ann. ch. 93A §§ 1-11
Michigan	Mich. Comp. Laws §§ 257.1401 to 257.1410	Mich. Comp. Laws § 445.901 to 445.922
Minnesota	Minn. Stat. Ann. § 325F.665	Minn. Stat. Ann. §§ 8.31, 325D.43 to 325D.48, 325F.67, & 325F.68 to 325F.70 and others
Mississippi	Miss. Code Ann. §§ 63-17-151 to 63-17-165	Miss. Code Ann. § 75-24-1 to 75-24-27
Missouri	Mo. Stat. Ann. §§ 407.560 to 407.579	Mo. Rev. Stat. § 407.010 to 407.307
Montana	Mont. Code Ann. §§ 61-4-501 to 61-4-533	Mont. Code Ann. § 30-14-101 to 30-14-142
Nebraska	Neb. Rev. Stat. §§ 60-2701 to 60-2709	Neb. Rev. Stat. § 59-1601 to 59-1623 & 87-301 to 87-306
Nevada	Nev. Rev. Stat. § 597.600 to 597.680	Nev. Rev. Stat. §§ 41.600 & 598.0903 to 598.0999
New Hampshire	N.H. Rev. Stat. Ann. §§ 357-D:1 to 357-D:12	N.H. Rev. Stat. Ann. § 358-A:1 to 358-A:13
New Jersey	N.J. Stat. Ann. §§ 56:12-29 to 56:12-49	N.J. Stat. Ann. § 56:8-1 to 56:8-91
New Mexico	N.M. Stat. Ann. §§ 57-16A-1 to 57-16A-9, 56-16-4, 56-16-13	N.M. Stat. Ann. § 57-12-1 to 57-12-22
New York	N.Y. Gen. Bus. Law § 198-a; N.Y. Veh. & Traf. Law § 417-a	N.Y. Exec. Law § 63(12); N.Y. Gen. Bus. Law §§ 349 & 350
North Carolina	N.C. Gen. Stat. §§ 20-351 to 20-351.10	N.C. Gen. Stat. § 75-1.1 to 75-35

<i>State Consumer Protection Laws Quick Reference I</i>		
STATE	LEMON LAW	UDAP STATUTE
North Dakota	N.D. Cent. Code §§ 51-07-16 to 51-07-22	N.D. Cent. Code §§ 51-15-01 to 51-15-11
Ohio	Ohio Rev. Code Ann. §§ 1345.71 to 1345.78	Ohio Rev. Code Ann. §§ 1345.01 to 1345.13 & 4165.01 to 4165.04
Oklahoma	Okla. Stat. Ann. tit. 15, § 901	Okla. Stat. Ann. tit. 15 § 751 to 763 & tit. 78 §§ 51 to 55
Oregon	Or. Rev. Stat. §§ 646.315 to 646.375	Or. Rev. Stat. § 646.605 to 646.656
Pennsylvania	73 Pa. Stat. Ann. § 1951 to 1963	Pa. Stat. Ann. Tit. 73 §§ 201-1 to 201-9.3
Puerto Rico		P.R. Laws Ann. tit.3 §§ 341 to 341w & tit. 10 §§ 257 to 273
Rhode Island	R.I. Gen. Laws §§ 31-5.2-1 to 31-5.2-12	R.I. Gen. Laws § 6-13.1-1 to 6-13.1-27
South Carolina	S.C. Code Ann. §§ 56-28-10 to 56-28-110, 56-15-40(1), 56-15-110	S.C. Code Ann. § 39-5-10 to 39-5-160
South Dakota	S.D. Codified Laws Ann §§ 32-6D-1 to 32-6D-11	S.D. Codified Laws Ann. § 37-24-1 to 37-24-35
Tennessee	Tenn. Code Ann. §§ 55-24-201 to 55-24-212	Tenn. Code Ann. § 47-18-101 to 47-18-125
Texas	Tex. Occ. Code Ann. §§ 2301.601 to 2301.613	Tex. Bus. & Com. Code Ann. §§17.41 to 17.63
Utah	Utah Code Ann. §§ 13-20-1 to 13-20-7, 41-3-406 to 41-3-414	Utah Code Ann. §§ 13-2-1 to 13-2-8, 13-5-1 to 13-5-18, & 13-11-1 to 13-11-23, & 13.11a-1 to 13.11a-5
Vermont	Vt. Stat. Ann. tit. 9 §§ 4170 to 4181	Vt. Stat. Ann. tit. 9 § 2451 to 2480g
Virginia	Va. Code §§ 59.1-207.9 to 207.16	Va. Code Ann. § 59.1-196 to 59.1-207
Virgin Islands		V.I. Code Ann. Tit. 12A §§ 101-123 & 180-185
Washington	Wash. Rev. Code §§ 19.118.005 to 19.118.904	Wash. Rev. Code Ann. §§19.86.010 to 19.86.920
West Virginia	W. Va. Code §§ 46A-6A-1 to 46-6A-9	W.Va. Code §§ 46A-6-101 to 46A-6-110
Wisconsin	Wis. Stat. Ann. § 218.0171, 218.0163(2)	Wis. Stat. Ann. §§ 100.18 & 100.20 to 100.264
Wyoming	Wyo. Stat. Ann. § 40-17-101	Wyo Stat. Ann. §§ 40-12-101

		to 40-12-114
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# **Lemon Buyback Laws and Salvage Vehicle Laws.**

<i>State Consumer Protection Laws Quick Reference II</i>		
STATE	LEMON LAW BUYBACK	SALVAGE VEHICLE STATUTES
Alabama	Ala. Code §§ 8-20A-3, 8-20A-4, 8-20A-5	Ala. Code § 32-8-87
Alaska	Alaska Stat. § 45.45.335	Alaska Stat. § 28-10-211
Arizona	Ariz. Rev. Stat. § 44-1266	Ariz. Rev. Stat. Ann. §§ 28-2091,5
Arkansas	Ark. Code Ann. § 4-90-412	Ark. Code Ann. § 27-14-2301 to
California	Cal. Civ. Code §§ 1793.23, .24, .26, 11713.1212	Cal. Veh. Code §§ 544, 5505, 6050, 1515-11515.2
Colorado	Colo. Rev. Stat. § 6-1-708(1)(b), 6-	Col. Rev. Stat. §§ 42-6-102, 42-6-136, 42-2 206
Connecticut	Conn. Gen. Stat. Ann. § 42-179(g), 42-179(i)	Conn. Gen. Stat. § 14-16c, 14-103a
Delaware	NA	Del. Code Ann. tit. 21 §§ 2512, 6716
District of Columbia	D.C. Code § 50-502(g)	D.C. Code Ann. § 50-505
Florida	Fla. Stat. Ann. §§ 681.111; 681.112; 681.114(2), 319.14 (West)	Fla. Stat. Ann. §§ 319.14, 319.30 (West)
Georgia	Ga. Code Ann. §§ 10-1-790	Ga. Code Ann. §§ 40-3-2, 40-3-36, 40-3-37
Hawaii	Haw. Rev. Stat. §§ 481I-3(I), 481I-3(k), 481J	Haw. Rev. Stat. § 286-48
Idaho	Idaho Code § 48-905	Idaho Code § 49-524 & 525
Illinois	625 Ill. Comp. Stat. §§ 5/5-104.2, 5/5-104.3 (West)	625 Ill. Comp. Stat. §§ 5/3-117.1, -118.1, 5/3-301 <i>et. seq.</i>
Indiana	Ind. Code Ann. §§ 24-5-13.5-1 to -24-5-13.5-14	Ind. Code Ann. §§ 9-22-3-3 to 9-22-3-5, 9-22-3-30
Iowa	Iowa Code Ann. § 322G.11 & .12	Iowa Code Ann. §§ 321.52, 321-69
Kansas	Kan. Stat. Ann. § 50-645, 50-659	Kan. Stat. Ann. §§ 8-135; 8-197 199
Kentucky	No specific lemon resale statute	Ky. Rev. Stat. § 186A.520, 186A.530
Louisiana	La. Rev. Stat. Ann. § 51:1945.1 & 1946	La. Rev. Stat. Ann. §§ 32:702, 32:707, 32.707.3
Maine	Me. Rev. Stat. Ann. tit. 10 §§ 11163(7) & (8), 1167, 1168, 1174	Me. Rev. Stat. Ann. tit. 29-A, §§ 602, 654, 667

	1475(4), tit. 29-A, § 670	
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<i>State Consumer Protection Laws Quick Reference II</i>		
STATE	LEMON LAW BUYBACK	SALVAGE VEHICLE STATUTES
Maryland	Md. Code Ann. Com. Law. § 14-1502	Md. Code Ann. Com. Law §§ 13-152, 13-506, 13-507
Massachusetts	Mass. Gen. Laws ch. 90 § 7N 1/2(5)	Mass. Gen. Laws ch. 90D, §§ 120B - 20F
Michigan	Mich. Comp. Laws §§ 257.4c, 257.235(5)	Mich. Comp. Laws Ann. § 257.217c
Minnesota	Minn. Stat. Ann. §§ 325F.655(13), 325F.665(5); 325F.665(9)	Minn. Stat. Ann. §§ 168A.01, 168A.151, 325F.664 to 325F.6644
Mississippi	No specific lemon resale statute	Miss. Code Ann. §§ 63-21-33, 63-21-39
Missouri	No specific lemon resale statute	Mo. Rev. Stat. §§ 301.010, 301.190, 301.227, 301.573
Montana	Mont. Code Ann. § 61-4-525	Mont. Code Ann. §§ 61-3-210 to 61-3-212
Nebraska	Neb. Rev. Stat. §§ 60-129, 6-130, 60-174	Neb. Rev. Stat. § 60-129, 60-130, 60-171 to 177
Nevada	Nev. Rev. Stat. §§ 597.620, 597.682 to .688	Nev. Rev. Stat. §§ 482.098, 482.245, 487.160, 487.710 to .890
New Hampshire	N.H. Rev. Stat. Ann. § 357-D:12	N.H. Rev. Stat. Ann. § 261.22
New Jersey	N.J. Stat. Ann. §§ 56:8-2, 56:12-39; 10-9.3	N.J. Stat. Ann. § 39-10-32 N.J. Admin Code 13:21-22.7
New Mexico	N.M. Stat. Ann. § 57-16A-7	N.M. Stat. Ann. § 66-1-4.12, 66-4.16, 66-3-4, 66-3-10.1
New York	N.Y. Veh. & Traf. Law § 417-a(4) 417-2(4)	N.Y. Veh. & Traf. Law §§ 429, 429-a
North Carolina	N.C. Gen. Stat. § 20-351.3(d)	N.C. Gen. Stat. §§ 20-4.01, 20-71.4, 20-109.1
North Dakota	N.D. Cent. Code § 51-07-22	N.D. Gen. Stat. § 39-05-20.1, 39-05-20.2
Ohio	Ohio Rev. Code Ann. § 1345.76(B)(C)	Ohio Rev. Code Ann. §§ 4505.1, 4505.181
Oklahoma	No specific lemon resale statute	Okla. Stat. Ann. tit. 47 § 591.8, 1111
Oregon	Or. Rev. Stat. § 646A.325, 646A.405	Or. Rev. Stat. §§ 803.015, 801.480, 801.527, 810.012, 819.014 to 819.016

<i>State Consumer Protection Laws Quick Reference II</i>		
STATE	LEMON LAW BUYBACK	SALVAGE VEHICLE STATUTES
Pennsylvania	Pa. Stat. Ann. tit. 73 §§ 1960(a) (b), 1961, 1962	Pa. Stat. Ann. tit. 75 §§ 102, 1161, 1165
Rhode Island	R.I. Gen. Laws § 31-5.2-9; -10 & -11	R.I. Gen. Laws § 31-46-4
South Carolina	S.C. Code Ann. § 56-28-100, 56-28-110	S.C. Code Ann. § 56-19-480 (Law. Co-op)
South Dakota	S.D. Codified Laws Ann § 32-6D-9, 32-6D-10	S.D. Codified Laws Ann. §§ 32-3-12, 32-3-51.5, 32-3-51.6, 32-3-53, 32-3-53.2 (as amended by 2005 S.D. Sess. Laws 155)
Tennessee	No specific lemon resale statute	Tenn. Code Ann. §§ 55-3-120, 208, 55-3-211, 55-3-212
Texas	Tex. Occ. Code Ann. §2301.610	Tex. Transp. Code Ann. §§ 501.091 to 501.095, 501.097, 501.098, 501.100 to 501.103
Utah	Utah Code Ann. §§ 41-3-406 to -414, 41-1a-522	Utah Code Ann. §§ 41-1a-1001, 1008
Vermont	Vt. Stat. Ann. tit. 9 §§ 4179, 418	Vt. Stat. Ann. tit. 23 §§ 2001, 2091, 2093
Virginia	Va. Code §§ 59.1-207.15, 59.1-207.16:1, 18.2-11	Va. Code §§ 46.2-1600 to 1608
Washington	Wash. Rev. Code § 19.118.061	Wash. Rev. Code Ann. § 42.04.524, 46.12.560, 46.55.230
West Virginia	W. Va. Code § 46A-6A-7 & -9	W.Va. Code Ann. § 17A-4-10
Wisconsin	Wis. Stat. Ann. § 218.015(2)(d), 218.0170(2)(d), 342.10, 342.15.1	Wis. Stat. Ann. §§ 342.01, 342.07, 342.10, 342.065 (see also Wis. Admin. Code Trans. 139.04)
Wyoming	No specific lemon law resale statute	Wyo Stat. §§ 31-2-103 to 109

**Telemarketing and Debt Collection Statutes.**

<i>State Consumer Protection Laws Quick Reference III</i>		
STATE	TELEMARKETING	DEBT COLLECTION STATUTES
Alabama	Ala. Code §§ 8-19A-1 to 8-19A-24 (Telemarketing); §§ 8-19C-1 to 8-19C-12 (Do-Not Call List)	Ala. Code § 40-12-80
Alaska	Alaska Stat. §§ 45.63.010 to 45.63.100, 45.50.475	Alaska Stat. §§ 8.24.041 to 8.24.380, 45.50.471 to 45.50.561
Arizona	Ariz. Rev. Stat. Ann. §§ 44-1271 to 44-1282	Ariz. Rev. Stat. Ann. §§ 32-1001 to 32-1057
Arkansas	Ark. Stat. Ann. §§ 4-99-10 to 4-99-408	Ark. Stat. Ann. §§ 17-24-101 to 17-24-512
California	Cal. Bus. & Prof. Code §§ 17511 to 17513, 17591 to 17595	Cal. Civ. Code §§ 1788 to 1788.33, 1812.700 to 1812.702, Cal Family
Colorado	Colo. Rev. Stat. §§ 6-1-301 to 6-1-304, 6-1-901 to 6-1-908, 4 Colo. Code Regs § 723-22	Colo. Rev. Stat. §§ 5-1-101 to 5-12-1812.700 to 1812.702, Cal Family Code 5610-5616
Connecticut	Conn. Gen. Stat. §§ 42-284 to 42-289	Conn. Gen. Stat. §§ 36a-645 to 647, 36a-800 to 36a-810 ,
Delaware	Del Code Ann. tit. 6 § 2501A-2509A	Del. Code Ann. tit. 30 §2301(a)(12)
District of Columbia	D.C. Code § 22-3226.01 to 22-3226.15	D.C. Code Ann. §§ 22-3401 to 22-3403, 28-3814 to 28-3816, 28-3901 to 28-3909
Florida	Fla. Stat. Ann. §§ 501.059, 501.601 to 501.626	Fla. Stat. Ann. §§ 559.55 to 559.785
Georgia	Ga. Code Ann. §§ 10-5B-1 to 105B-8	Ga. Code Ann. §§ 7-3-1 to 7-3-29
Hawaii	Haw. Rev. Stat. §§ 481P-1 to 481P-8	Haw. Rev. Stat. §§ 443B-1 to 443B-21, 480D-1 to 480D-5
Idaho	Idaho Code §§ 48-1001 to 48-1108	Idaho Code §§ 26-2222 to 26-2251
Illinois	815 Ill. Comp. Stat. Ann. §§ 413/1 to 413/27, 402/1 to 402/99, (Do-Not Call List), 505/2P.1	225 Ill. Comp. Stat. 425/1 to 425/9.7
Indiana	Ind. Code Ann. §§ 24-5-12-1 to 24-5-12-25, 24-4.7-1-1 to 24.4.7-5-6	Ind. Code Ann. §§ 25-11-1-1 to 25-11-13, 24-4.5-5-107



Iowa	Iowa Code §714.8(15)	Iowa Code Ann. §§ 537.7101 to 537.7103
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<i>State Consumer Protection Laws Quick Reference III</i>		
STATE	TELEMARKETING	DEBT COLLECTION STATUTES
Kansas	Kan. Stat. Ann. §§ 50-670 to 50.679a	Kan. Stat. Ann. § 16a-5-107
Kentucky	Ky. Rev. Stat. §§ 367.461 to 367.46999	None, <i>but see</i> Ky. Rev. Stat. Ann. §24A-240 (restrictions on servicemember all claims court suits by creditors and debt collectors)
Louisiana	La. Rev. Stat. Ann. §§ 45:821 to 45:833, 45:844.11 to 45:844.15	La. Rev. Stat. Ann. §§ 9:3552 and 9:3562, <i>see also</i> 9:3534
Maine	Me. Rev. Stat. Ann. tit. 10 §§ 1498, 1499, 1499A	Me. Rev. Stat. Ann. tit. 32 §§11.001 to 11054, 9A §§ 5-107, 5-116, 5-117, 5-201, 19A § 2109
Maryland	Md. Comm. Law Code § 14-2201 to 14-2205, 14-3201 to 14-3202, 8-204 to 8-205	Md. Ann. Code Bus. Reg. §§ 7-101 to 7-502, Md. Comm. Law Code §§14-201 to 14-204
Massachusetts	Mass. Gen. Laws Ann. ch. 159, 19E	Mass. Gen. Laws Ann. ch. 93 §§ 24 to 28, 49
Michigan	Mich. Comp. Laws §§ 445.111 to 445.111e, 445.113, 445.116	Mich. Comp. Laws Ann. §§339.901 to 339.920 & 445.251 to 445.258
Minnesota	Minn. Stat. 325E.26 to 325E.31, 325E.395, 325E.311 to 325E.316 (Telephone Solicitation, expires on December 31, 2012), 325G.12 to 325G.14	Minn. Stat. Ann. §§ 332.31 to 332.45 and Minn. Stat. §§ 325F.91 – 325F.92 (restricting debt collection activities of rent-to-own companies)
Mississippi	Miss. Code Ann. §§ 77-3-601 to 77-3-619, (77-3-701 to 77-3-737 was scheduled for sunset on July 1, 2006)	None, <i>but see</i> Miss. Code Ann. §97-9-1 (criminal offense to simulate legal process to obtain collection of a debt)
Missouri	Mo. Rev. Stat. §§407.1070 to 407.1090 (Telemarketing), §§ 407.1095 to 407.1110 (Do-Not Call List)	Mo. Rev. Stat. §§ 425.300 and 287.140(13)
Montana	Mont. Code Ann. §§ 30-14-1401 to 30-14-1406, § 30-14-501 to 30-14-508	None, <i>but see</i> Mont. Code Ann. §§3-1-602, 30-19-102 to 30-19-116 (rent-to-own

		regulations), 31-1-704 (payday lending regulations)
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<i>State Consumer Protection Laws Quick Reference III</i>		
STATE	TELEMARKETING	DEBT COLLECTION STATUTES
Nebraska	Neb. Rev. Stat. §§ 86-212 to 86-235, 86-236 to 86-257	Neb. Rev. Stat. §§ 45-601 to 45-623, 45-1043 to 45-1058
Nevada	Nev. Rev. Stat. §§ 597.814, 598.0918, 228.500 to 228.640, 599B005-599B.300	Nev. Rev. Stat. §§ 649.005 to 649.435
New Hampshire	N.H. Rev. Stat. Ann. §§ 359-E:1 to 359-E:11	N.H. Rev. Stat. Ann. §§ 358-C:1 to 358-C:4
New Jersey	N.J. Stat. Ann. §§ 56:8-119 to 56:8-135, 48:17-25; N.J. Admin. Code §13:45A-1.1	N.J. Stat. Ann. §§ 45:18-1 to 45:18-6.1
New Mexico	N.M. Stat. Ann. §§ 57-12-22 to 57-12-24	N.M. Stat. Ann. §§ 61-18A-1 to 61-18A-33
New York	N.Y. Gen. Bus. Law § 399-p, 399- pp, 399-z; N.Y. Pers. Prop. Law §§440 to 448, N.Y. Pub. Serv. Law §92-d	N.Y. Gen. Bus. Law §§ 600 to 604- b
North Carolina	N.C. Gen. Stat. §§ 66-260 to 66-266, 75-100 to 75-105	N.C. Gen. Stat. §§ 58-70-15, 58-70-90 to 58-70-155, 75-50 to 75-56 (Prohibited Acts by Debt Collectors)
North Dakota	N.D. Cent. Code §§ 51-18-01 to 51-18-22	N.D. Cent. Code §§ 13-05-01 to 13-05-10
Ohio	Ohio Rev. Code Ann. 4719.01 to 4719.99	None, <i>but see</i> ORC Ann. § 1319.12
Oklahoma	Okla. Stat. Ann. Tit. 15 §§ 775A.1 to 775A.5	Okla. Stat. tit. 14A, § 5-107, <i>see also</i> tit. 12, § 1751 (prohibiting collection agency from bringing action in servicemember all claims court)
Oregon	Or. Rev. Stat. §§ 646.551 to 646.578	Or. Rev. Stat. §§ 646.639 to 646.643, 697.005 to 697.105
Pennsylvania	Pa. Stat. §§ 2241 to 2249	Pa. Cons. Stat. Ann. 18 § 7311 & 73 § 2270.1 to 2270.6
Rhode Island	R.I. Gen. Laws §§ 5-61-1 to 5-61-6	R.I. Gen. Laws §§ 19-14.9-1 to 19-14.9-14
South Carolina	S.C. Code Ann. §§ 16-17-445 to 16-17-446	S.C. Code Ann. § 37-5-108
South Dakota	S.D. Codified Laws Ann §§ 37-30A-1 <i>et. seq.</i> , 49-31-101	None

	to 49-31-108 (Do-Not Call Register)	
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<i>State Consumer Protection Laws Quick Reference III</i>		
STATE	TELEMARKETING	DEBT COLLECTION STATUTES
Tennessee	Tenn. Code Ann. §§ 47-18-1501 to 47-18-1527, 65-4-401 to 65-4-408 (Telephone Solicitation)	Tenn. Code Ann. §§ 62-20-101 to 62-20-127
Texas	Tex. Bus. & Com. Code Ann. §§44.001 to 44.253 <i>et seq.</i> , 38.001 to 38.305, 55.121 to 55.138, 16 Tex. Admin. Code § 26.125	Tex. Fin. Code Ann. §§ 392.001 to 392.404, 396.001 to 396.353
Utah	Utah Code Ann. §§ 13-26-1 to 13-26-11, 13-25a-101 to 13-25-111	Utah Code Ann. §§12-1-1 to 12-1-11, 70C-&-105 to 106
Vermont	9 Vt Stat. Ann. § 2464 to 2464d	Vt. Stat. Ann. tit. 9 §§ 2451a to 2461
Virginia	Va. Code §§ 59.1-21.1 to 59.1-21.7, 59.1-510 to 59.1-518	Va. Code § 18.2-213
Washington	Wash. Rev. Code §§ 19.158.010 to 19.158.901	Wash. Rev. Code Ann. §§19.16.100 to 19.16.950
West Virginia	W. Va. Code § 46A-6F-101 to 46A-6F-703	W.Va. Code Ann. §§ 47-16-1 to 47-16-5, 46a-2-122 to 46a-2-129a, 48-1-307
Wisconsin	Wisc. Stat. §§ 423.201 to 423.205, 100-52	Wis. Stat. Ann. §§ 218.04
Wyoming	Wyo. Stat. Ann. §§ 40-12-301 to 40-12-305	Wyo. Stat. §§ 33-11-101 to 33-11-116, 40-14-507

### States Statutes that Address Military Lending Act (10 U.S.C. § 987)

#### Statute Expressly Grants Enforcement Authority

##### Hawaii

H.R.S. § 481B-16(a): The director of commerce and consumer affairs may enforce Title 10 United States Code section 987, (section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law No. 109-364), and federal regulations promulgated thereunder, including but not limited to Title 32 Code of Federal Regulations Part 232. Became effective July 6, 2012

##### Iowa

IOWA CODE § 535.18: The superintendent of banking and the superintendent of credit unions, as applicable, shall have the authority to enforce the consumer protection provisions of 10 U.S.C. §

987 concerning limitations on terms of consumer credit extended to servicemembers and their dependents.

#### Violation of MLA is a Violation of State Law

##### **California**

CAL. FIN. CODE § 23038(a) [California Deferred Deposit Transaction Law]: Any person who violates any provision of Section 670 of the John Warner National Defense Authorization Act of Fiscal Year 2007 (Public Law 109-364) or any provision of Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, violates this division.

CAL. FIN. CODE § 22345(a) [California Finance Lenders Law]: Any person who violates any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or any provision of Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, violates this chapter.

##### **Nevada**

NEV. REV. STAT. § 604A.442; § 675.292: Notwithstanding any other provision of law, a violation of any provision of section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of this chapter.

##### **Illinois**

815 ILL. COMP. STAT. 122/2-51: Violation of Federal law constitutes a violation of this Act with respect to practices concerning members of the military and their dependents. Notwithstanding any other provision of law, a violation of any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of this Act.

##### **Montana**

MONT. CODE ANNO., § 31-1-829(1); § 31-1-729(1) [Title Loan Act & Montana Deferred Deposit Loan Act]: A violation of any applicable provision of the [ ] John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation promulgated under those acts is also a violation of this part.

#### Entities/Transactions Must Comply with MLA

##### **Connecticut**

CONN. GEN. STAT. § 36a-759a: Each financial institution shall comply with the applicable provisions of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, and 32 CFR 232, as amended from time to time, that limit the interest rate that may be charged on consumer credit to members of the armed services and their dependents. Whenever it appears that any financial institution has violated, is violating or is about to violate any of such applicable provisions, the commissioner may take action against such financial institution in accordance with sections 36a-50 and 36a-52. (For purposes of this section “financial institution” means any Connecticut bank, Connecticut credit union or other

person whose lending activities in this state are subject to 32 CFR 232, as amended from time to time.)

### **Texas**

TEX. FINANCE CODE § 393.625: An extension of consumer credit described by Section 393.602(a) that is obtained by a credit access business for a member of the United States military or a dependent of the United States military or that the business assisted that person in obtaining must comply with 10 U.S.C. Section 987 and any regulations adopted under that law, to the extent applicable.

TEX. FINANCE CODE § 393.201(c): Form and Terms of Contract—A contract with a credit access business for performances of services [deferred presentment transaction or a motor vehicle title loan] must: (4) contain a statement that a credit access business must comply, to the extent applicable, with 10 U.S.C. Section 987 and any regulations adopted under that law with respect to an extension of consumer credit described by Section 393.602(a).

### **State Law/Regulations Preempted by MLA**

### **Kansas**

K.S.A. § 16a-2-405: Payday loans to military borrowers; restrictions—Kansas Comment 2010: The federal law and implementing regulations preempt state law. See, for example, Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Talent Amendment), 10 U.S.C.A. § 987, regulations that implement section 670 from the Department of Defense, found at 32 C.F.R. Part 232, and the Servicemembers Civil Relief Act, 50 U.S.C.A. § 501 et seq.

K.S.A. § 16a-6-117. Rules and regulations; truth in lending: The administrator shall adopt rules and regulations necessary to carry out the provisions and terms of the uniform consumer credit code which are consistent with or no less restrictive than...section 670 of the John Warner national defense authorization act for fiscal year 2007, 10 U.S.C. § 987 et seq. and 32 C.F.R. § 232 et seq.

## **SECTION FOUR: PARTNERS**

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The Air Force uses this link:

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The Navy uses this link:

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The Coast Guard uses this link:

[http://www.uscg.mil/legal/la/Legal\\_Assistance\\_Find\\_Lawyer.asp](http://www.uscg.mil/legal/la/Legal_Assistance_Find_Lawyer.asp)

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436 AW/JA  
Dover AFB, Delaware  
19902  
Commercial: (302) 677-3300  
Location: Dover

### DISTRICT OF COLUM- BIA

ARMY

Pentagon Army and Air  
Force Legal Assistance Of-  
fice  
Washington, DC 20310  
Commercial: (703) 571-3114  
Location: Arlington, Vir-  
ginia

AIR FORCE  
  
Joint Base Legal Assistance  
Office  
Joint Base Anacostia-  
Bolling, DC 20332  
Commercial: (202) 767-5297  
Location: Washington, DC

COAST GUARD

Headquarters, U.S. Coast  
Guard Legal Assistance Of-  
fice  
Washington, DC 20593  
Commercial: (202) 372-3783  
Location: Washington, DC

NAVY

NLSO North Central Branch  
Office  
Washington Navy Yard, DC  
20374  
Commercial: (202) 685-5525  
Location: Washington, DC

### FLORIDA

AIR FORCE

6 ARW/JA  
MacDill AFB, Florida 33621  
Commercial: (813) 828-4422  
Location: Tampa

45 SW/JA

Patrick AFB, Florida 32925  
Commercial: (321) 494-7357  
Location: Cocoa Beach

AAC/JA  
Eglin AFB, Florida 32542  
Commercial: (850) 882-4613  
Location: Fort Walton Beach

1 SOW/JA  
Hurlburt Field, Florida  
32544  
Commercial: (850) 884-7821  
Location: Mary Ester

325 FW/JA  
Tyndall AFB, Florida 32403  
Commercial: (850) 283-4681  
Location: Panama City

NAVY

NLSO Southeast Jackson-  
ville  
Jacksonville, Florida 32212  
Commercial: (904) 542-  
2565, EXT 3006  
Location: Jacksonville

NLSO SE Det. Mayport  
Mayport, Florida 32228  
Commercial: (904) 270-  
5445, EXT 3017  
Location: Mayport

NLSO Central Pensacola  
Pensacola, Florida 32508  
Commercial: (850) 452-3734  
Location: Pensacola

COAST GUARD

7th Coast Guard District  
Miami, Florida 33131  
Commercial: (305) 415-6950  
Location: Miami

## Directory of Military Legal Assistance Offices

### GEORGIA

#### ARMY

Office of the Staff Judge Advocate

U.S. Army Signal Center of Excellence and Fort Gordon  
Fort Gordon, Georgia 30905  
Commercial: (706) 791-7812/7813

Location: Augusta

Office of the Staff Judge Advocate

U.S. Army Maneuver Center of Excellence and Fort Benning  
Fort Benning, Georgia 31905

Commercial: (706) 545-3281/3282

Location: Columbus

Office of the Staff Judge Advocate

3d Infantry Division and Fort Stewart  
Fort Stewart, Georgia 31314  
Commercial: (912) 767-8809/8819

Location: Hinesville

#### AIR FORCE

23 WG/JA

Moody AFB, Georgia 31699  
Commercial: (229) 257-3414  
Location: Valdosta

116 ACW/JA

Robins AFB, Georgia 31098  
Commercial: (478) 222-0576  
Location: Warner Robins

#### MARINE CORPS

Legal Assistance Office

Marine Corps Logistics Base  
Albany, Georgia 31704

Commercial: (912) 439-5212  
Location: Albany

#### NAVY

NLSO Southeast Branch Office  
Kings Bay

Kings Bay, Georgia 31547  
Commercial: (912) 573-3963  
Location: Kings Bay

### HAWAII

#### ARMY

Office of the Staff Judge Advocate

25th Infantry Division (Light) and U.S. Army, Hawaii

Schofield Barracks, Hawaii 96857

Commercial: (808) 655-8608/8607

Location: Honolulu

#### MARINE CORPS

Office of the Staff Judge Advocate

Marine Corps Base, Hawaii  
Kaneohe Bay, Hawaii 96863  
Commercial: (808) 257-6738

#### NAVY

NLSO Pacific Detachment

Pearl Harbor  
Joint Base Pearl Harbor-Hickam, Hawaii 96860  
Commercial: (808) 473-4717

Location: Pearl Harbor

#### COAST GUARD

U.S. Coast Guard Honolulu  
Legal Assistance Office  
Honolulu, Hawaii 96850  
Commercial: (808) 535-3246  
Location: Honolulu

### IDAHO

#### AIR FORCE

366 WG/JA

Mountain Home, Idaho 83648

Commercial: (208) 828-2238  
Location: Mountain Home

### ILLINOIS

*Active Duty*

#### AIR FORCE

375 AW/JA

Scott AFB, Illinois 62225  
Commercial: (618) 256-2358/3542

Location: Belleville

#### ARMY

Office of the Staff Judge Advocate and Chief Counsel

U.S. Army Sustainment Command  
Rock Island, Illinois 61299  
Commercial: (309) 782-1443  
Location: Rock Island

#### NAVY:

Legal Assistance Attorney  
Naval Legal Service Office,

## Directory of Military Legal Assistance Offices

North Central,  
Detachment Great Lakes  
2540 Paul Jones St.  
Great Lakes, IL 60088  
(847) 688-4753 ext. 112;  
FAX (847) 688-2564

*Federal Reserves*

### ARMY RESERVES

91st Legal Operations De-  
tachment  
United States Army Re-  
serves  
7402 W. Roosevelt Rd.  
Forest Park IL 60130-2524  
(708) 209-2601, x229, x230

*National Guard*

Illinois National Guard  
[Illinois Department of Mili-  
tary Affairs]  
Camp Lincoln  
Legal Office  
Springfield IL  
(217) 761-3510

### INDIANA

### IOWA

### KANSAS

#### ARMY

Office of the Staff Judge Ad-  
vocate  
1<sup>st</sup> Infantry Division and Fort  
Riley  
Fort Riley, Kansas 66442  
Commercial: (787) 239-  
2935/6291/2217  
Location: Junction City

Office of the Staff Judge Ad-  
vocate  
U.S. Army Combined Arms  
Center and Fort Leaven-  
worth  
Fort Leavenworth, Kansas  
66027  
Commercial: (913) 684-4944  
Location: Leavenworth

#### AIR FORCE

22 ARW/JA  
McConnell AFB, Kansas  
67211  
Commercial: (316) 759-3590  
Location: Wichita

### KENTUCKY

#### ARMY

Office of the Staff Judge Ad-  
vocate  
101st Airborne Division  
(AASLT) and Fort Campbell  
Fort Campbell, Kentucky  
42223  
Commercial: (270) 798-  
0918/0910  
Location: Hopkinsville

Office of the Staff Judge Ad-  
vocate  
U.S. Army Cadet Command  
and Fort Knox  
Fort Knox, Kentucky 40121  
Commercial: (502) 624-2771  
Location: Radcliffe

### LOUISIANA

#### ARMY

Office of the Staff Judge Ad-  
vocate

Joint Readiness Training  
Center and Fort Polk  
Fort Polk, Louisiana 71459  
Commercial: (318) 531-  
2112/2580  
Location: Leesville

#### AIR FORCE

2 BW/JA  
Barksdale AFB, Louisiana  
71110  
Commercial: (318) 456-2562  
Location: Bossier City

#### NAVY

NLSO Central Branch Of-  
fice New Orleans  
New Orleans, Louisiana  
70143  
Commercial: (504) 678-4692  
Location: New Orleans

#### COAST GUARD

8th Coast Guard District  
New Orleans, Louisiana  
70130  
Commercial: (504) 671-2331  
Location: New Orleans

### MAINE

### MARYLAND

#### ARMY

Office of the Staff Judge Ad-  
vocate  
U.S. Army Garrison  
Fort Meade, Maryland  
20755  
Commercial: (301) 677-  
9504/9536  
Location: Laurel

## Directory of Military Legal Assistance Offices

<p>Office of the Staff Judge Advocate U.S. Army Research, Development and Engineering Command Aberdeen Proving Ground, Maryland 21005 Commercial: (410) 278-1583/1584 Location: Aberdeen</p> <p>Office of the Post Judge Advocate Fort Detrick, Maryland 21702 Commercial: (301) 619-2643/2221 Location: Frederick</p> <p>AIR FORCE</p> <p>11 WG/JA Joint Base Andrews, Maryland 20331 Commercial: (240) 612-5750 Location: Camp Springs</p>	<b>MICHIGAN</b>		65305 Commercial: (660) 687-6809 Location: Knob Noster
	<b>MINNESOTA</b>		
	<b>MISSISSIPPI</b>		<b>MONTANA</b>
	AIR FORCE		AIR FORCE
	81 TRW/JA Keesler AFB, Mississippi 39534 Commercial: (228) 376-8601 Location: Biloxi		341 MW/JA Malstrom AFB, Montana 59402 Commercial: (406) 731-2878 Location: Great Falls
	14 FTW/JA Columbus AFB, Mississippi 39710 Commercial: (662) 434-7030 Location: Columbus		<b>NEBRASKA</b>
	NAVY		AIR FORCE
	NLSO Central Branch Office, Gulfport Gulf Port, Mississippi 39501 Commercial: (228) 871-2620 Location: Gulf Port		55 WG/JA Offutt AFB, Nebraska 68113 Commercial: (402) 294-3732/3733/2348 Location: Omaha
			<b>NEVADA</b>
<b>MASSACHUSETTS</b>	<b>MISSOURI</b>		AIR FORCE
AIR FORCE	ARMY		HQ AWFC/JA Nellis AFB, Nevada 89191 Commercial: (702) 652-5407 Location: Las Vegas
66ABW/JA Hanscom AFB, Massachusetts 01731 Commercial: (781) 225-1410 Location: Bedford	Office of the Staff Judge Advocate U.S. Army Maneuver Support Center of Excellence and Fort Leonard Wood Fort Leonard Wood, Missouri 65473 Commercial: (573) 596-0629 Location: Waynesville		<b>NEW HAMPSHIRE</b>
COAST GUARD			<b>NEW JERSEY</b>
1st Coast Guard District Boston, Massachusetts 02110-3350 Commercial: (617) 223-8500 Location: Boston	AIR FORCE		ARMY
	509 BW/JA Whiteman AFB, Missouri		Office of the Staff Judge Advocate U.S. Army Support Activity Joint Base McGuire-Dix-Lakehurst, New Jersey 08640 Commercial: (609) 562-6578



## Directory of Military Legal Assistance Offices

Location: Wrightstown	49 FW/JA	Office of the Staff Judge Advocate
AIR FORCE	Holloman AFB, New Mexico 88330	XVIII Airborne Corps and Fort Bragg
87 ABW/JA	Commercial: (575) 572-7217	Fort Bragg, North Carolina 28307
Joint Base Dix-McGuire-Lakehurst, New Jersey 08641	Location: Alamogordo	Commercial: (910) 396-0396
Commercial: (609) 754-2778	377 ABW/JA	Location: Fayetteville
Location: Wrightstown	Kirtland AFB, New Mexico 87117	Office of the Staff Judge Advocate
COAST GUARD	Commercial: (505) 846-4217	82d Airborne Division
U.S. Coast Guard Training Center	Location: Albuquerque	Fort Bragg, North Carolina 28307
Cape May, New Jersey 08204	27 SOW/JA	Commercial: (910) 908-0195
Commercial: (609) 898-6902	Cannon AFB, New Mexico 88103	Location: Fayetteville
Location: Cape May	Commercial: (505) 784-2211	AIR FORCE
	Location: Clovis	4 FW/JA
	<b>NEW YORK</b>	Seymour Johnson AFB, North Carolina 27531
NAVY	ARMY	Commercial: (919) 722-5322
NLSO North Central Branch Office Earle	Office of the Staff Judge Advocate	Location:
Colts Neck, New Jersey 07722	U.S. Military Academy	MARINE CORPS
Commercial: (732) 866-2066	West Point, New York 10996	Joint Law Center
Location: Colts Neck	Commercial: (845) 938-4541/5104	Marine Corps Air Station Cherry Point, North Carolina 28533
<b>NEW MEXICO</b>	Location: Highland Falls	Commercial: (252) 466-2311/2361
ARMY	Office of the Staff Judge Advocate	Location: Cherry Point
Office of the Staff Judge Advocate	10th Mountain Division (Light Infantry) and Fort Drum	Joint Law Center
U.S. Army White Sands Missile Range	Fort Drum, New York 13602	2nd MAW/Marine Corps Air Station New River
White Sands Missile Range, New Mexico 88002	Commercial: (315) 772-5261	Jacksonville, North Carolina 28545
Commercial: (505) 678-1263/1264	Location: Watertown	Commercial: (910) 449-6169
Location: White Sands	<b>NORTH CAROLINA</b>	Location: Jacksonville
AIR FORCE	<i>Active Duty</i>	Consolidated Legal Assistance Office Marine Corps Base
	ARMY	

## Directory of Military Legal Assistance Offices

Camp Lejeune, North Carolina 28542  
Commercial: (910) 451-1903  
Location: Jacksonville

### *National Guard*

N.C. National Guard Legal Assistance Program  
1636 Gold Star Dr.  
Raleigh, NC 27607  
919-664-6220  
800-621-4136, ext. 46220  
[www.nc.ngb.army.mil](http://www.nc.ngb.army.mil)  
[laura.m.forrest@us.army.mil](mailto:laura.m.forrest@us.army.mil)  
[shane.judd@us.army.mil](mailto:shane.judd@us.army.mil)

### **NORTH DAKOTA**

#### **AIR FORCE**

319 ARW/JA  
Grand Forks AFB, North Dakota 58205  
Commercial: (701) 747-3605/3606  
Location: Grand Forks

5 BW/JA  
Minot AFB, North Dakota 58705  
Commercial: (701) 723-3026  
Location: Minot

### **OHIO**

#### **AIR FORCE**

ASC?JA  
Wright-Patterson AFB, Ohio 45433  
Commercial: (937) 257-6141/6142  
Location: Dayton

#### **COAST GUARD**

9th Coast Guard District  
Cleveland, Ohio 44199  
Commercial: (216) 902-6010  
Location: Cleveland

### **OKLAHOMA**

#### **ARMY**

Office of the Staff Judge Advocate  
Fires Center of Excellence and Fort Sill  
Fort Sill, Oklahoma 73503  
Commercial: (580) 442-5058/5059  
Location: Lawton

#### **AIR FORCE**

97 AMW/JA  
Altus AFB, Oklahoma 73523  
Commercial: (580) 481-7294  
Location: Altus

71 FTW/JA  
Vance AFB, Oklahoma 73705  
Commercial: (580) 213-7404  
Location: Enid

OC-ALC/JA  
Tinker AFB, Oklahoma 73145  
Commercial: (405) 739-5811  
Location: Oklahoma City

### **PENNSYLVANIA**

#### **ARMY**

Office of the Post Judge Advocate  
Carlisle Barracks

Carlisle Barracks, Pennsylvania 17013  
Commercial: (717) 245-4940  
Location: Carlisle Barracks

### **PUERTO RICO**

#### **ARMY**

Installation Legal Office  
U.S. Army Garrison  
Fort Buchanan, PR  
Commercial: (787) 707-5138/5742  
Location:

#### **COAST GUARD**

Legal Officer  
U.S. Coast Guard  
San Juan, PR 00901  
Commercial: (787) 729-2370  
Location: San Juan

### **RHODE ISLAND**

#### **NAVY**

NLSO North Central Branch  
Office Newport  
Newport, Rhode Island 02841  
Commercial: (401) 841-3766  
Location: Newport

### **SOUTH CAROLINA**

#### **ARMY**

Office of the Staff Judge Advocate  
U.S. Army Basic Combat Training Center of Excellence and Fort Jackson  
Fort Jackson, South Carolina 29207

## History of Military Legal Assistance Offices

Commercial: (803) 751-1734  
Location: Columbia

### AIR FORCE

628 ABW/JA  
Joint Base Charleston, South Carolina 29404  
Commercial: (843) 963-5502  
Location: Charleston

20 FW/JA  
Shaw AFB, South Carolina 29152  
Commercial: (803) 895-1560  
Location: Sumter

### MARINE CORPS

Marine Corps Air Station  
Beaufort, South Carolina 29904  
Commercial: (843) 228-7330  
Location: Beaufort

Marine Corps Recruit Depot  
Parris Island, South Carolina 29905  
Commercial: (843) 228-2925  
Location: Beaufort

## SOUTH DAKOTA

### AIR FORCE

28 BW/JA  
Ellsworth AFB, South Dakota 57706  
Commercial: (605) 385-2329/2328  
Location: Rapid City

## TENNESSEE

### ARMY

See Fort Campbell, Kentucky

### AIR FORCE

AEDC/JA  
Arnold AFB, Tennessee 37389  
Commercial: (931) 454-7814  
Location: Tullahoma

### NAVY

NLSO Central Branch Office  
Millington, Tennessee 38054  
Commercial: (901) 874-7379  
Location: Millington

## TEXAS

### ARMY

Office of the Staff Judge Advocate  
1<sup>st</sup> Armored Division and Fort Bliss  
Fort Bliss, Texas 79916  
Commercial: (915) 568-7141  
Location: El Paso

Office of the Staff Judge Advocate  
III Corps and Fort Hood  
Fort Hood, Texas 76544  
Commercial: (254) 287-7901/3199  
Location: Killeen

Office of the Staff Judge Advocate  
1st Cavalry Division  
Fort Hood, Texas 76545  
Commercial: (254) 287-6060  
Location: Killeen

Office of the Staff Judge Advocate  
U.S. Army Garrison, Fort Sam Houston  
Fort Sam Houston, Texas 78234

Commercial: (210) 221-2282/2353  
Location: San Antonio

Office of the Staff Judge Advocate  
U.S. Army North (5<sup>th</sup> Army)  
Fort Sam Houston, Texas 78234  
Commercial: (210) 221-1737  
Location: San Antonio

Office of the Staff Judge Advocate  
U.S. Army South  
Fort Sam Houston, Texas 78234  
Commercial: (210) 295-6967  
Location: San Antonio

### AIR FORCE

311 ABG/JA  
Brooks AFB, Texas 78235  
Commercial: (210) 536-3301  
Location:

7 BW/JA  
Dyess AFB, Texas 79607  
Commercial: (325) 696-2232  
Location: Abilene

47 FTW/JA  
Laughlin AFB, Texas 78843  
Commercial: (830) 298-5172  
Location: Del Rio

17 TRW/JA  
Goodfellow AFB, Texas

## Directory of Military Legal Assistance Offices

76908 Commercial: (325) 654-3203 Location: San Angelo	ARMY	Langley Law Center Joint Base Langley-Eustis, Virginia 23665 Commercial: (757) 764-3277 Location: Hampton
902 MSG/JA Randolph AFB, Texas 78150 Commercial: (210) 652-6781 Location: San Antonio	Office of the Staff Judge Advocate Fort Belvoir, Virginia 22060 Commercial: (703) 805-2856 Location: Alexandria	MARINE CORPS
802 MSG/JA Lackland AFB, Texas 78236 Commercial: (210) 671-3363 Location: San Antonio	Military District of Washington Legal Services Division Fort Myer, Virginia 22211 Commercial: (703) 696-0761 Location: Arlington	Office of the Staff Judge Advocate Marine Corps Combat Development Command Quantico, Virginia 22134 Commercial: (703) 784-3122/3126 Location: Quantico
82 TW/JA Sheppard AFB, Texas 76311 Commercial: (940) 676-2312 Location: Wichita Falls	Office of the Post Judge Advocate The Judge Advocate General's Legal Center and School Charlottesville, Virginia 22903 Commercial: (804) 972-6322 Location: Charlottesville	NAVY
NAVY		NLSO Mid-Atlantic Norfolk Norfolk, Virginia 23511 Commercial: (757) 341-4491 Location: Norfolk
NLSO Branch Office Corpus Christi Corpus Christi, Texas 78419 Commercial: (361) 961-3835 Location: Corpus Christi	Command Judge Advocate U.S. Army Element, Fort Eustis Joint Base Langley-Eustis, Virginia 23604 Commercial: (757) 878-3031, ext. 222 Location: Newport News	NLSO Mid-Atlantic Detachment Oceana Virginia Beach, Virginia 23460 Commercial: (757) 433-2215, Ext. 223 Location: Virginia Beach
NLSO Branch Office Fort Worth Fort Worth, Texas 76127 Commercial: (817) 782-6007 Location: Fort Worth		Joint Expeditionary Base Little Creek-Fort Story Virginia Beach, Virginia 23521 Commercial: (757) 462-4759 Location: Virginia Beach
<b>UTAH</b>	Office of the Staff Judge Advocate U.S. Army Combined Arms Support Command and Fort Lee Fort Lee, Virginia 23801 Commercial: (804) 765-1500 Location: Petersburg	COAST GUARD
AIR FORCE		U.S. Coast Guard Legal Services Command Norfolk, Virginia 23510 Commercial: (757) 628-4200 Location: Norfolk
75 ABW/JA Hill AFB, Utah 84056 Commercial: (801) 777-6756 Location: Ogden	AIR FORCE	
<b>VERMONT</b>		
<b>VIRGINIA</b>		

U.S. Coast Guard RESTRA-  
CEN  
Yorktown, Virginia 23690  
Commercial: (757) 856-  
2374/2376  
Location: Yorktown

## WASHINGTON

### ARMY

Office of the Staff Judge Ad-  
vocate  
I Corps and Fort Lewis  
Joint Base Lewis-McChord,  
Washington 98433  
Commercial: (253) 477-1873  
Location: Near Tacoma

### AIR FORCE

92 ARW/JA  
Fairchild AFB, Washington  
99011  
Commercial: (509) 247-2838  
Location: Spokane

62 AW/JA  
Joint Base Lewis-McChord,  
Washington 98438  
Commercial: (253) 982-  
5512/5513  
Location: Tacoma

### NAVY

NLSO Northwest Branch  
Office Everett  
Everett, Washington 98207  
Commercial: (425) 304-4551  
Location: Everett

NLSO Northwest Branch  
Office Whidbey Island Na-  
val Air Station

Oak Harbor, Washington  
98278  
Commercial: (360) 257-  
2126 /2127  
Location: Oak Harbor

NLSO Northwest Branch  
Office Bremerton  
Bremerton, Washington  
98314  
Commercial: (360) 476-1003  
Location: Bremerton

NLSO Northwest Branch  
Office Bangor  
Naval Base Kitsap Bangor,  
Washington 98315  
Commercial: (360) 396-6003  
Location: Silverdale

### COAST GUARD

13th Coast Guard District  
Seattle, Washington 98174-  
1067  
Commercial: (206) 220-7110  
Location: Seattle

## WEST VIRGINIA

### WISCONSIN

### WYOMING

### AIR FORCE

90 MW/JA  
F.E. Warren AFB, Wyoming  
82005-3207  
Commercial: (307) 773-2256  
Location: Cheyenne

## U.S. Department of Justice/U.S. ATTORNEYS

### **The Consumer Protection Branch of the Department of Justice**

The Consumer Protection Branch (“CPB”) of the Civil Division of the United States Department of Justice is a litigating office that brings civil and criminal enforcement actions in consumer-protection related areas.

CPB is responsible for litigation arising under a variety of federal statutes administered by federal regulatory agencies that protect public health and safety, and under general federal statutes that set forth penalties for activity that may harm consumers. The Branch’s broad mission is to safeguard consumers and to represent government agencies that serve consumers. CPB’s affirmative litigation involves areas such as adulterated and misbranded food, drugs, and devices; hazardous and unsafe consumer products; unfair and deceptive advertising and franchising practices; unfair consumer credit and debt collection practices; deceptive and fraudulent internet and mail order sales; all types of financial fraud; and unlawful practices that target vulnerable consumer populations.

The Branch receives case referrals from a number of agencies, including the Federal Trade Commission (“FTC”), the Food and Drug Administration (“FDA”), and the Consumer Product Safety Commission (“CPSC”). CPB also generates its own cases and becomes involved in consumer-related cases in which United States Attorneys’ Offices seek assistance, often acting as co-counsel with Assistant United States Attorneys. The Branch consists of approximately 40 attorneys litigating criminal and civil cases nationwide. Its work is aided by substantial litigation support resources, including a cadre of experienced paralegals and data management specialists.

CPB attorneys are experienced in litigating complex criminal and civil cases and have done so in federal judicial districts throughout the United States. Our attorneys have expertise in a wide variety of substantive areas, including the laws governing food, drugs and devices, consumer protection, and product safety. The Branch is responsible for enforcing such landmark public interest statutes as the Food, Drug, and Cosmetic Act, the Federal Trade Commission Act, and the Consumer Product Safety Act. And CPB attorneys also regularly prosecute criminal violations of the mail and wire fraud statutes and other provisions of the criminal code.

The Consumer Protection Branch’s criminal enforcement efforts have made impacts in reducing the vulnerability of consumers to fraud and abuse. Notable areas of success have included prosecutions of:

- Fraudulent foreclosure rescue schemes
- The diversion and counterfeiting of prescription drugs;
- Off-label promotion of prescription drugs;
- Fraudulent and deceptive marketing and sale of dietary supplements;
- Odometer tampering; and
- Illegal distribution of fireworks and explosives.

Another realm in which CPB has been particularly successful in protecting consumers is in the area of business opportunities. The field of business opportunities, which offer consumers purported opportunities to run their own businesses and make substantial amounts of money, has been rife with fraud. Working with the FTC, Branch attorneys have brought countless civil actions against purveyors of fraudulent business opportunities, obtaining civil penalties and injunctive relief.

In recent years, CPB has increased the pressure on fraudsters, bringing numerous criminal prosecutions against individuals engaged in business opportunity (“bizopp”) fraud; working with the Postal Inspection Service, the Branch has devoted substantial resources to prosecuting this type of fraud, particularly in southern Florida, where it has been concentrated. Prosecutions in this area have included charges involving mail and wire fraud, conspiracy, and, where a previous enforcement effort resulted in a judicial or administrative order governing a target’s conduct, criminal contempt. The prosecutions involved dozens of different business opportunities that, when combined, victimized thousands of consumers at a cost in the millions of dollars.

In addition to business opportunity fraud, the Consumer Protection Branch has brought a number of civil and criminal enforcement actions related to consumer credit and debt matters as well as unlawful telemarketing practices. CPB attorneys are well-versed and highly experienced in the various consumer protection statutes and regulations that govern consumer credit and loans, debt collection, privacy, and identity. The enforcement of these laws, which largely fall under the FTC regulatory umbrella, make up a substantial portion of the Branch’s work and have a significant impact on the lives and livelihoods of consumers – including civilians and military alike.

Among the various statutes the Consumer Protection Branch enforces are:

- *The Telemarketing and Consumer Fraud and Abuse Prevention Act;*
- *The Telemarketing Sales Rule;*
- *The Truth in Lending Act;*
- *The Fair Credit Billing Act;*
- *The Equal Credit Opportunity Act;*
- *The Fair Credit Reporting Act;*
- *The Credit Repair Organizations Act;* and
- *The Fair Debt Collection Practices Act*

These statutes are summarized in Section Three above. The Consumer Protection Branch stands ready, willing, and able to bring its expertise and resources to bear in the protection of servicemembers from fraudulent and abusive practices – particularly in the areas of credit, debt, privacy, and identity. Consumer Protection attorneys have the experience, resources, and know-how to spearhead enforcement in these areas and, together with the FTC, the United States Attorneys’ Offices, and law enforcement partners throughout the nation, help ensure that members of our military are not victimized by unscrupulous or unlawful practices in their financial affairs and home lives.

### **POCs at DOJ Consumer Protection Branch**

The points of contact at CPB are Branch Assistant Directors Richard Goldberg,

[REDACTED] and Andy Clark, [REDACTED]  
[REDACTED]



## United States Attorneys' Offices Contact Information

### ALABAMA

#### Middle District

131 Clayton Street  
Montgomery, AL 36104  
(334) 223-7280  
(334) 223-7560

701 Avenue "A"  
Opelika, AL 36801  
(Unstaffed)  
(334) 490-0909  
(334) 490-0909

100 W. Troy Street  
Dothan, AL 36301  
(Unstaffed)  
(334) 792-3583

#### Northern District

1801 Fourth Ave., North  
Birmingham, AL 35203-2101  
(205) 244-2001  
(205) 244-2171  
400 Meridian Street, Suite 304  
Huntsville, AL 35801  
(256) 534-8285  
(256) 539-3270

#### Southern District

Riverview Plaza  
63 S. Royal Street Suite 600  
Mobile, AL 36602  
(251) 441-5845  
(251) 441-5277

### ALASKA

Federal Bldg. & U.S.  
Courthouse  
222 West 7th Ave., #9, Rm 253  
Anchorage, AK 99513-7567  
(907) 271-5071  
(907) 271-3224

Federal Building and U.S.  
Courthouse  
709 West 9th Street  
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(605) 226-7264  
(605) 226-7266

### TENNESSEE

#### Eastern District

800 Market Street, Suite 211  
Knoxville, TN 37902  
(865) 545-4167  
(865) 545-4176

1110 Market Street, Suite 301  
Chattanooga, TN 37402  
(423) 752-5140  
(423) 752-5150

220 West Depot Street  
Greeneville, TN 37743  
(423) 639-6759  
(423) 639-6451

208 Sunset Drive, Suite 509  
Johnson City, TN 37604  
(423) 282-1889  
(423) 282-0849

#### Middle District

Jerry E. Martin, USA\*  
110 Ninth Avenue,

South, Suite A961  
Nashville, TN 37203  
(615) 736-5151  
(615) 736-5323

817 S. Garden Street,  
Room 205  
Columbia, TN 37083  
(931) 388-6030

Post Office & Courthouse  
9 East Broad St.  
Cookeville, TN 38503  
(931) 528-2709

#### Western District

800 Clifford Davis Federal Office Building  
Memphis, TN 38103  
(901) 544-4231  
(901) 544-4230

109 S. Highland, Suite 300  
Jackson, TN 38301  
(731) 422-6220  
(731) 422-6668

### TEXAS

#### Eastern District

350 Magnolia Avenue,  
Suite 150  
Beaumont, TX 77701-2237  
(409) 839-2538  
(409) 839-2550

Bank of America Bldg  
415 S. 1st Street  
Lufkin, TX 75901  
(936) 639-4003  
(936) 639-4033

One Grand Centre  
1800 Teague Drive, Suite 500  
Sherman, TX 75090  
(903) 868-9454  
(903) 892-2792

110 North College, Suite 700  
Tyler, TX 75702  
(903) 590-1400  
(903) 590-1439

101 East Park Boulevard,  
Suite 500  
Plano, TX 75704  
(972) 509-1201  
(972) 509-1209

500 State Line Ave. N.,  
Suite 402  
Texarkana, TX 75501  
(903) 794-9481  
(903) 792-5164

#### Northern District

1100 Commerce Street,  
Third Floor  
Dallas, TX 75242-1699  
(214) 659-8600  
(214) 659-8806

Amarillo Nat'l Plaza Two  
500 South Taylor St.  
Amarillo, TX 79101-2446  
(806) 324-2356  
(806) 324-2399

801 Cherry Street, Unit 4  
Burnett Plaza, Ste. 1700  
Ft. Worth, TX 76102-6897  
(817) 252-5200  
(817) 252-5455

1205 Texas Ave., Ste. 700  
U.S. Federal Building  
Lubbock, TX 79401-4002  
(806) 472-7351  
(806) 472-7394

#### Southern District

P.O. Box 61129  
Houston, TX 77208  
(713) 567-9000  
(713) 718-3300

U.S. Courthouse  
600 East Harrison, Suite 201  
Brownsville, TX 71406  
(956) 548-2554  
(956) 548-2711

One Shoreline Plaza South Tower,  
800 N Shoreline Blvd.,  
Suite 500  
Corpus Christi, TX 78401  
(361) 888-3111  
(361) 888-3200

P.O. Box 1179  
1100 Matamoros, Suite 200  
Laredo, TX 78042  
(956) 723-6523  
(956) 726-2266

Bentsen Tower  
1701 West Hwy 83, Suite

600  
McAllen, TX 73341  
(956) 618-8010  
(956) 618-8009

P.O. Box 2685  
312 South Main, 3rd Floor  
Victoria, TX 77902-2685  
(361) 576-9988  
(361) 579-6820

#### Western District

601 N.W. Loop 410, Suite 600  
San Antonio, TX 78216  
(210) 384-7100  
(210) 384-7105

2500 N. Highway 118  
Suite A200  
Alpine, TX 79830  
(432) 837-7332  
(432) 837-7485

816 Congress Avenue  
Suite #1000  
Austin, TX 78701  
(512) 916-5858  
(512) 916-5854

111 East Broadway  
Room A300  
U.S. Courthouse  
Del Rio, TX 78840  
(830) 703-2025  
(830) 703-2030

700 East San Antonio Ave., Suite 200  
El Paso, TX 79901  
(915) 534-6884  
(915) 534-6024

400 W. Illinois Street,  
Suite 1200  
Midland, TX 79702  
(432) 686-4110  
(432) 686-4131

410 S. Cedar  
Room 255  
U. S. Courthouse  
Pecos, TX 79772  
(Unstaffed)  
(432) 445-4343  
(432) 445-2225

800 Franklin, Suite 280  
Waco, TX 76701  
(254) 750-1580  
(254) 750-1599

## United States Attorneys' Offices Contact Information

### UTAH

185 South State Street,  
Suite 300  
Salt Lake City, UT 84111  
(801) 524-5682  
(801) 524-6924

### VERMONT

P.O. Box 570  
Burlington, VT 05402  
(802) 951-6725  
(802) 951-6540  
P.O. Box 10  
Rutland, VT 05702  
(802) 773-0231  
(802) 773-0214

### VIRGIN ISLANDS

Federal Building and, U. S.  
Courthouse, Room 260  
5500 Veterans Drive  
St. Thomas, VI 00802-  
6424  
(340) 774-5757  
(340) 776-3474  
1108 King Street, Suite  
201, Christiansted  
St. Croix, VI 00820-4951  
(340) 773-3920  
(340) 773-1407

### VIRGINIA

**Eastern District**  
2100 Jamieson Ave  
Alexandria, VA 22314  
(703) 299-3700  
(703) 299-2584

World Trade Center  
101 W. Main Street, Suite  
8000  
Norfolk, VA 23510  
(757) 441-6331  
(757) 441-6689

Main Street Centre  
600 E. Main Street, Suite  
1800  
Richmond, VA 23219  
(804) 819-5400

(804) 771-2316  
Fountain Plaza Three  
Suite 300  
721 Lakefront Commons  
Newport News, VA 23606  
(757) 591-4000  
(757) 591-0866

**Western District**  
310 First Street, S.W.  
Room 906  
Roanoke, VA 24011  
Post Office Box 1709  
Roanoke, VA 24008  
(540) 857-2250  
(540) 857-2614

180 W. Main Street  
Abingdon, VA 24210  
(276) 628-4161  
(276) 628-7399

255 West Main Street,  
Room 104  
Charlottesville, VA 22901  
(434) 293-4283  
(434) 293-4910

### WASHINGTON

**Eastern District**  
P.O. Box 1494  
Spokane, WA 99210-1494  
(509) 353-2767  
(509) 353-2766

Post Office Box 4065  
Yakima, WA 98901  
(509) 454-4425  
(509) 454-4435

**Western District**  
700 Stewart Street Suite  
5220  
Seattle, WA 98101-1271  
(206) 553-7970  
(206) 553-0882

1201 Pacific Avenue, Suite  
700  
Tacoma, WA 98402  
(253) 428-3800  
(253) 428-3826

### WEST VIRGINIA

**Northern District**

P.O. Box 591  
Wheeling, WV 26003-0011  
(304) 234-0100  
(304) 234-0110

Federal Center  
320 West Pike Street, Suite  
300  
Clarksburg, WV 26301-  
2710  
(304) 623-7030  
(304) 623-7031

Post Office Box 190  
Elkins, WV 26241-0190  
(304) 636-1739  
(304) 636-1967

U. S. Courthouse and Post  
Office Building  
217 West King Street,  
Suite 400  
Martinsburg, WV 25401-  
3286  
(304) 262-0590  
(304) 262-0591

**Southern District**  
Post Office Box 1713  
Charleston, WV 25326  
(304) 345-2200  
(304) 347-7074

Post Office Box 1239  
Huntington, WV 25714  
(304) 529-5799  
(304) 529-5545

### WISCONSIN

**Eastern District**  
530 Federal Building  
517 East Wisconsin Ave-  
nue  
Milwaukee, WI 53202  
(414) 297-1700  
(414) 297-1738

**Western District**  
660 West Washington Ave-  
nue, Suite 303  
Madison, WI 53703  
(608) 264-5158  
(608) 264-5172

### WYOMING

P. O. Box 668

Cheyenne, WY 82003-  
0668  
(307) 772-2124  
(307) 772-2123

Dick Cheney Federal  
Building  
P.O. Box 22211  
Casper, WY 82602-5010  
(307) 261-5434  
(307) 261-5471

P.O. Box 449  
Lander, WY 82520-0449  
(307) 332-8195  
(307) 332-7104

P.O. Box 703  
Yellowstone National Park,  
WY 82190-0703  
(307) 344-2119  
(307) 344-9266

## CONSUMER FINANCIAL PROTECTION BUREAU

In July, 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which created the Consumer Financial Protection Bureau (the CFPB). The CFPB supervises financial institutions for compliance with over 19 federal consumer protection statutes as they pertain to financial products and services. The statutes range from the Fair Debt Collection Practices Act, to the Real Estate Settlement Procedures Act, to the Equal Credit Opportunity Act. In addition, the CFPB recently received authority to enforce the Military Lending Act.

- [Click here](http://www.consumerfinance.gov/regulations/) for a list of regulations administered and enforced by the CFPB, including a link to the electronic code of each regulation. (*Imbed this link: <http://www.consumerfinance.gov/regulations/> into “click here.”*)

- If you have questions about the enforcement of one of these statutes, contact: Khalid Hargrove, Enforcement Attorney: [Khalid.hargrove@cfpb.gov](mailto:Khalid.hargrove@cfpb.gov) at 202-435-7817.

In addition to supervising and enforcing a wide-range of consumer protection statutes, the CFPB also accepts complaints on a variety of financial products, including: credit cards, mortgages, bank accounts, consumer loans, student loans, and credit reporting.

- [Click here](http://www.consumerfinance.gov/complaint/) to submit a complaint to the CFPB about a consumer financial product. (*Imbed this link: <http://www.consumerfinance.gov/complaint/> into “click here”*)

Finally, the Dodd-Frank Act created a special office to address the financial concerns of Servicemembers, veterans, and their families. The Office of Servicemember Affairs is tasked with monitoring complaints and coordinating with other federal and state agencies in order to address the unique challenges faced by our community.

- If you have questions or concerns you’d like to discuss with members of the Office of Servicemember Affairs, please email us at: [military@cfpb.gov](mailto:military@cfpb.gov)

## FEDERAL TRADE COMMISSION

### Bureau of Consumer Protection

The FTC’s Bureau of Consumer Protection stops unfair, deceptive or fraudulent practices in the marketplace. BCP conducts investigations, sues companies and people that violate the law, develops rules to ensure a vibrant marketplace, and educates consumers and businesses about their rights and responsibilities. They collect complaints about hundreds of issues from data security and deceptive advertising to identity theft and Do Not Call violations, and make them available to law enforcement agencies worldwide for follow-up.

BCP’s experienced and motivated staff is nimble, using 21st century tools to anticipate – and respond to – changes in the marketplace. As we approach our 100th anniversary, BCP is proud



to be the nation's cop on the consumer beat, prepared to meet current challenges – and those around the corner -- with expertise and excitement.

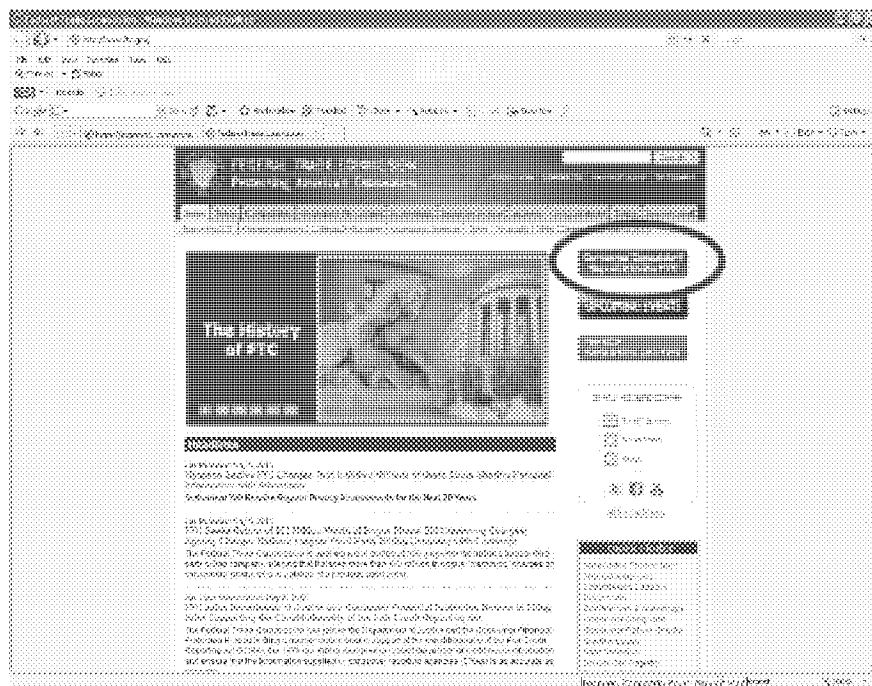
BCP has seven divisions:

1. Advertising Practices protects consumers by enforcing the nation's truth-in-advertising laws, with particular emphasis on claims for food, over-the-counter drugs, dietary supplements, alcohol and tobacco, and on conduct related to high-tech products and the Internet; and by enforcing the Children's Online Privacy Protection Act.
2. Consumer and Business Education plans, develops, and implements creative national campaigns in plain English and Spanish to alert consumers to their rights and to explain the science of compliance to industry.
3. Enforcement litigates civil contempt and civil penalty actions to enforce all FTC federal court injunctions and administrative orders that address consumer protection issues, including advertising and financial practices, data security, high-tech fraud, and telemarketing and other scams. The Division also coordinates FTC actions with criminal law enforcement agencies through its Criminal Liaison Unit; develops, reviews, and enforces a variety of consumer protection rules; and runs the Bureau's Hispanic initiative, bankruptcy program, and collections shop.
4. Financial Practices protects consumers from deceptive and unfair practices in the financial services industry, including protecting consumers from predatory or discriminatory lending practices, as well as deceptive or unfair loan servicing, debt collection, and credit counseling or other debt assistance practices.
5. Marketing Practices leads the Commission's response to Internet, telecommunications, and direct-mail fraud; deceptive spam; fraudulent business, investment, and work-at-home schemes; and violations of the Do Not Call provisions of the Telemarketing Sales Rule.
6. Planning & Information collects and analyzes complaints about consumer fraud, identity theft, and the National Do Not Call Registry, and makes them available to law enforcement; helps distribute redress to consumers; and provides cutting-edge technological investigative and litigation support.
7. Privacy and Identity Protection protects consumers' privacy; works to prevent identity theft and aids consumers whose identities have been stolen; and implements laws and regulations for the credit reporting industry, including the Fair Credit Reporting Act.

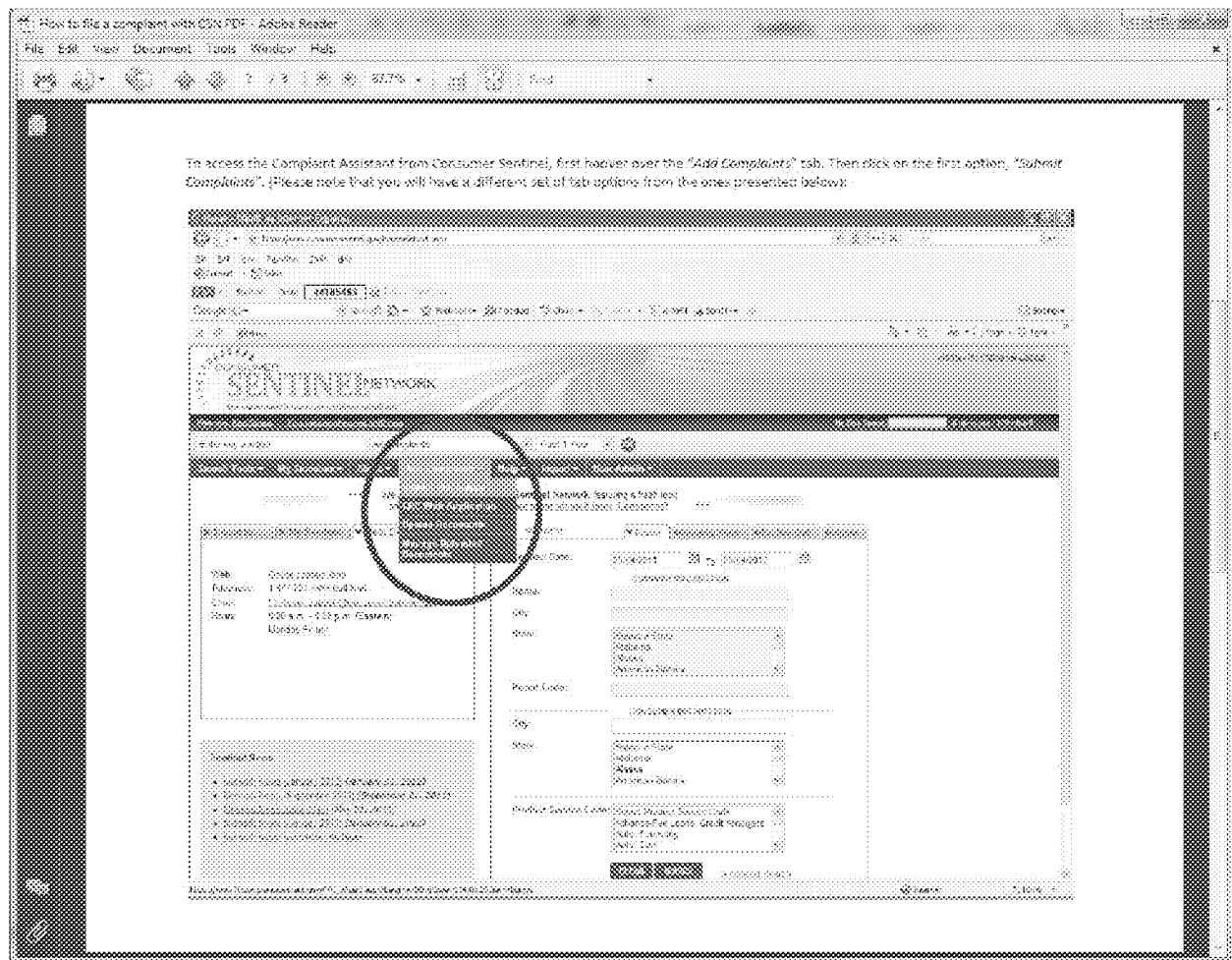
### **Instructions for the Public-Filing a Complaint Online**

To help a consumer file a complaint, you need to access the FTC's Complaint Assistant. There are two ways this can be done. The first is by going to [www.ftc.gov](http://www.ftc.gov) and clicking on the

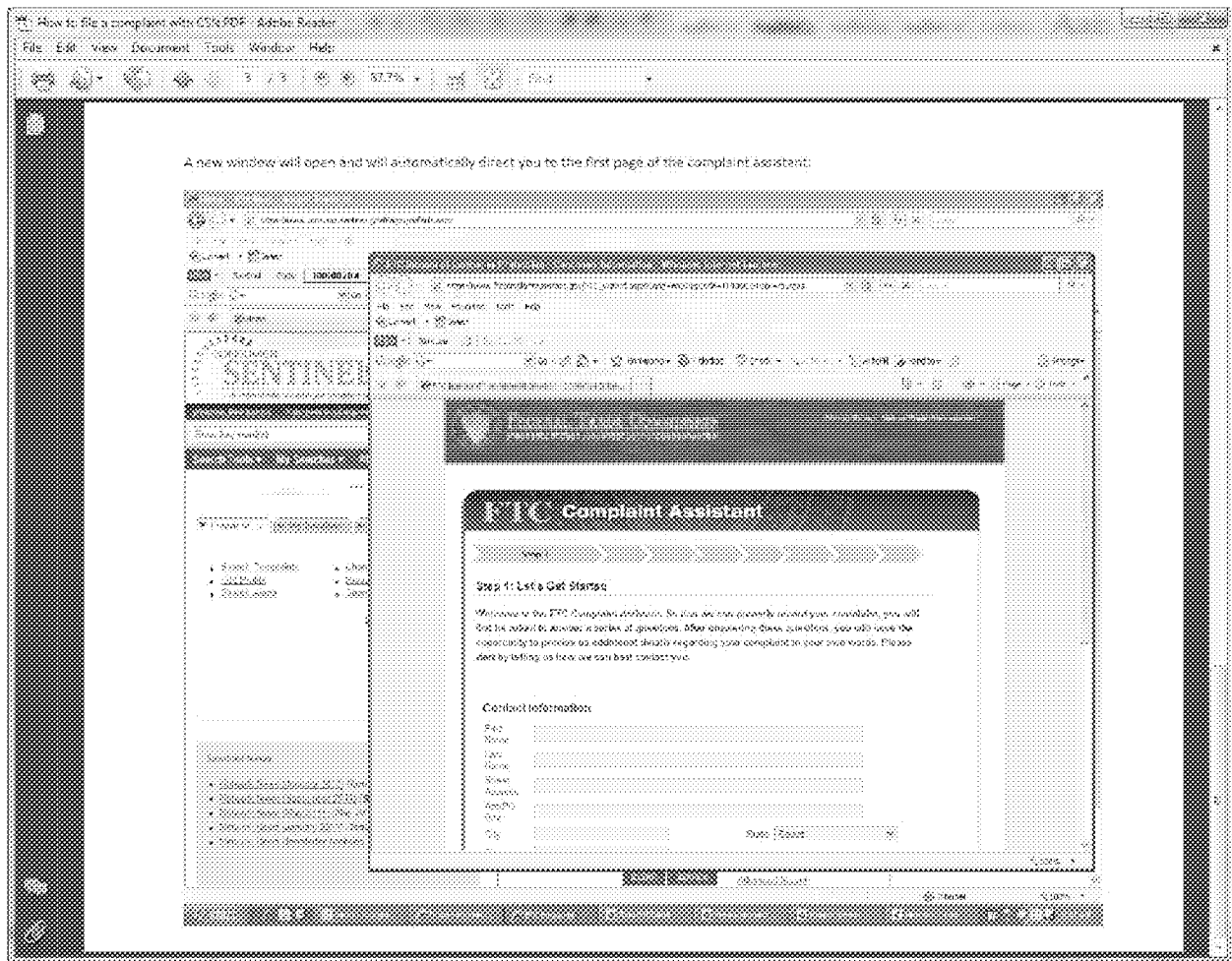
“Consumer Complaint? Report it to the FTC” button. The prompts will guide you through the process.



To access the Complaint Assistant from Consumer Sentinel, first hover over the “Add Complaints” tab, then click on the first option, “Submit Complaints”. (Please note that you will have a different set of tab options from the ones presented below):



A new window will open and will automatically direct you to the first page of the complaint assistant:



To file an FTC complaint, you can call 1-877-FTC-HELP or file online at [FTC.gov](http://FTC.gov) by clicking on the FTC Complaint Assistant.

Scammers have sent thousands of emails that appear to be from the FTC, but are not. These emails to business people claim that complaints have been filed against their companies. If you get an unexpected email that claims to be from the FTC and asks you to click on a link or attachment for information about consumer complaints, delete it. Don't open it. Don't click on the links. If you do, it may install malware on your computer.

If you think you may have downloaded malware, see [www.DrGuardOnline.gov/malware](http://www.DrGuardOnline.gov/malware).

#### Before You Submit a Complaint

The Federal Trade Commission, the nation's consumer protection agency, collects complaints about companies, business practices, and identity theft under the FTC Act and other laws we enforce or administer.

**Why:** Your complaints can help us detect patterns of wrong doing, and lead to investigations and prosecutions. The FTC enters all complaints it receives into Consumer Sentinel, a secure online database that is used by thousands of civil and criminal law enforcement authorities worldwide.

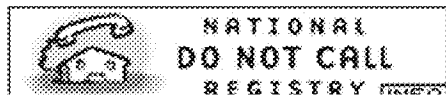
**The FTC does not resolve individual consumer complaints.**

**Your Privacy:** How much personal information you provide is up to you. If you don't provide your name and certain other information, it may be impossible for us to refer, respond to, or investigate your complaint. To learn more about this information collection and its purpose, authority and use, read our [Privacy Act Statement](#).



Click here for the Complaint Assistant form.  
Click [here](#) to file a complaint with the FTC.

Haga clic [aquí](#) para acceder al Asistente de Quejas de la FTC en Español.



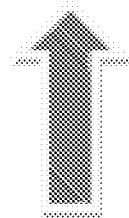
#### National Do Not Call Registry

The National Do Not Call Registry gives you a choice about whether to receive telemarketing calls at home. Most telemarketers should not call your number once it has been on the registry for 31 days. If they do, you can file a complaint.

This is the first screen of the Complaint Assistant. You can file a complaint anonymously if you wish. The FTC enters all complaints it receives into Consumer Sentinel, a secure online database that is used by thousands of civil and criminal law enforcement authorities worldwide. Although one complaint might not make a difference, several will when pooled together.

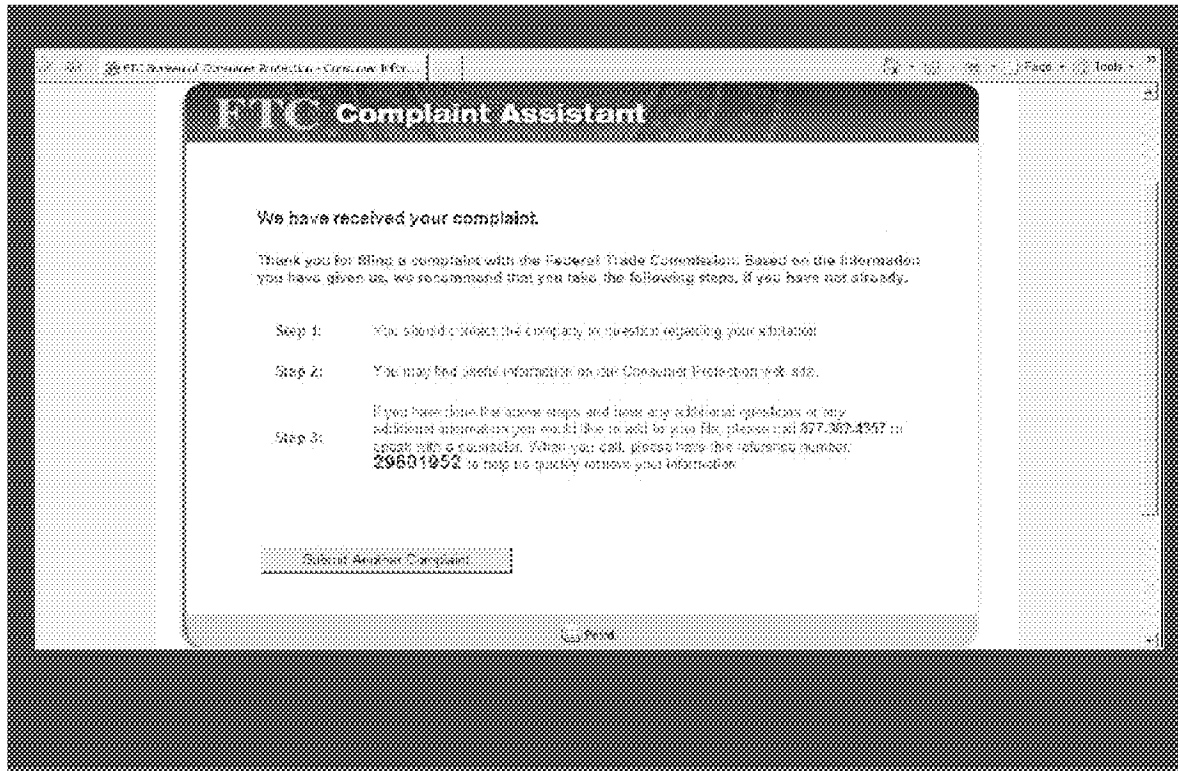
Also note that you can file a complaint on behalf of someone else.

The screenshot shows the FTC Complaint Assistant interface. At the top, the URL is [https://www.ftccomplaintassistant.gov/FTC\\_Wizard.aspx?Lang=en](https://www.ftccomplaintassistant.gov/FTC_Wizard.aspx?Lang=en). The page title is "FTC Complaint Assistant". Below the title is a progress bar with "Step 1" highlighted. The section is titled "Step 1: Let's Get Started". A welcome message states: "Welcome to the FTC Complaint Assistant. So that we can properly record your complaint, you will first be asked to answer a series of questions. After answering these questions, you will have the opportunity to provide us additional details regarding your complaint in your own words. Please start by letting us how we can best contact you." The "Contact Information" section includes fields for First Name, Last Name, Street Address, Apt/PO Box, City, State (dropdown), Zip, Country (USA), Phone Number (with fields for Area, Number, and Extension), and Email Address. At the bottom, there is a question: "Are you reporting this complaint on behalf of someone else?" with radio buttons for "Yes" and "No".



Here you can select which type of fraud your complaint involves.

When you've successfully submitted your complaint, you'll receive a confirmation screen like this with a reference number. This number is the individual number the FTC places on each complaint. Your complaints can help us detect patterns of wrong-doing, and lead to investigations and prosecutions. The FTC does not resolve individual consumer complaints.



## Consumer Sentinel

Consumer Sentinel Network is the FTC's free online database of millions of consumer complaints made to it. It provides federal, state, and local law enforcement members with access to these complaints as well as access to complaints shared by other [data contributors](#). Consumer Sentinel includes complaints in following categories: identity theft; do-not-call registry violations; computers, the internet, and online auctions; telemarketing scams; advance-fee loans and credit scams; immigration services; sweepstakes, lotteries, and prizes; business opportunities and work-at-home schemes; health and weight loss products; and debt collection, credit reports, and financial matters. See [www.ftc.gov/sentinel](http://www.ftc.gov/sentinel) for further information on becoming a member.

## Consumer Sentinel-Military

Consumer Sentinel-Military is merely a portal to Consumer Sentinel that is advertised to the military community. Inviting complaints from that community help the FTC and the Department of Defense spot trends and assist in the targeting of cases for prosecution and alerting the

military community. Just with Consumer Sentinel, one can make complaints as well as, for military law enforcement, gain approved access to search through them.

<http://www.ftc.gov/sentinel/military/>

<http://www.ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2011.pdf>

### **Points of Contact (POC) List for FTC Regional Offices Regarding Servicemember Issues**

ECR-Cleveland (DC, DE, MD, MI, OH, PA, VA, WV)

Jon Steiger, Regional Director, [REDACTED]

Larissa Bungo, Assistant Regional Director, [REDACTED]

MWR-Chicago (IA, IL, IN, KS, KY, MN, MO, NE, ND, SD, WI)

Steve Baker, Regional Director, [REDACTED]

Todd Kossow, Assistant Regional Director, [REDACTED]

NER-New York (CT, MA, ME, NH, NJ, NY, PR, RI, VT, USVI)

Bill Efron, Regional Director, [REDACTED]

Deborah Marrone, Assistant Regional Director, [REDACTED]

NWR-Seattle (AK, ID, MT, OR, WA, WY)

Bob Schroeder, Regional Director, [REDACTED]

David Horn, Assistant Regional Director, [REDACTED]

SER-Atlanta (AL, FL, GA, MS, NC, SC, TN)

Cindy Liebes, Regional Director, [REDACTED]

Chris Couillou, Assistant Regional Director, [REDACTED]

Gideon Sinasohn, Staff Attorney, [REDACTED]

SWR-Dallas (AR, LA, NM, OK, TX)

Deanya Kueckelhan, Regional Director, [REDACTED]

James Golder, Assistant Regional Director, [REDACTED]

WR-San Francisco and Los Angeles (AZ, CA, CO, HI, NV, UT)

Jeffrey Klurfeld, Regional Director, [REDACTED]

Tom Dahdouh (SF), Assistant Regional Director, [REDACTED]

Tom Syta (LA), Assistant Regional Director, [REDACTED]



# VETERAN SERVICE ORGANIZATIONS

## General Description of Organizations and Some Examples

Important in any effort to increase awareness of trends in consumer frauds perpetrated against military servicemembers, veterans, and their families is the effort to maintain contact with veteran service organizations (VSOs).<sup>113</sup> For purposes of this Toolkit, only a brief overview of the topic is provided, but such treatment should not undercut the potential importance these organizations may serve in obtaining information about the targeting of veterans. Just as Family Readiness Groups (FRGs) serve as a valuable point for outreach for those who currently serve, VSOs serve as one such point of outreach particularly for our Nation's veterans.

There is no formal definition of a veterans service organization. Although one might not readily know how to define them, certain examples are readily identified. Two names that are well-known, for example, are the American Legion and the Veterans of Foreign Wars (V.F.W.). Using such top national organizations as those, one can identify a number of common features. These entities are private, nonprofit organizations, granted a tax-exempt status under Section 501(c)(19) of the Internal Revenue Code, whose membership derives from members of the U. S. Armed Forces (past or present), military cadets, and family. Also, as with a number of these larger national organizations, they may possess a Congressional charter under Title 36 of the U.S. Code.<sup>114</sup>

For a detailed explanation of some of the legal aspects of a veteran (service) organization, see IRS Publication 3386, *Veterans' Organizations*, or the following link:  
<http://www.irs.gov/pub/irs-tege/ecotopicj99.pdf>.

## Master POC List

For a listing of the national headquarters of a number of established veterans service organizations, see the VA's directory located online at the following link:  
[http://www1.va.gov/vso/VSO-Directory\\_2012-2013.pdf](http://www1.va.gov/vso/VSO-Directory_2012-2013.pdf). You should also consult the VA's website and their process according to VA regulations about accrediting certain veteran organizations: <http://www.va.gov/ogc/recognizedvsos.asp>.

Usually, through contact with the national headquarters of a given organization and any associated websites, one can locate any existing state headquarters or local posts, chapters, etc.

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<sup>113</sup> The abbreviation VSO commonly is used both in regard to "veteran service organization" as well as "veteran service officers." Like veteran service organizations, there is no precise definition of a veterans service officer, but such individuals typically are either VA accredited members of a national veteran service organization or a local or state public employee who is so accredited.

<sup>114</sup> See, e.g., 36 U.S.C. §21701-21708 (2011) (American Legion).

## **SECTION FIVE: ADDITIONAL INFORMATION**

## BRIEF LIST OF COMMON MILITARY ACRONYMS

ADSW	Active Duty for Special Work
AO	Area of Operation
AOR	Area of Responsibility
ARNGUS	Army National Guard of the United States
BAH	Basic Allowance for Housing
BASD	Basic Active Service Date. The actual or constructive date from which a member accrues active Federal service for retirement. DA Pamphlet 600-8 . To be compared to PEBD (The actual or constructive date creditable service for pay purposes begins.). Also, the term is used but not defined in AR 601-210.
DFAS	Defense Finance and Accounting Service
C2	Command & Control
CAC	Common Access Card
COB	Close of Business
COLA	Cost of Living Allowance
CONUS	Continental United States. Compare with OCONUS
CTR	Contractor
CUI	<p>Controlled Unclassified Information is a categorical designation that refers to unclassified information that does not meet the standards for National Security Classification under Executive Order 12958, as amended, but is (i) pertinent to the national interests of the United States or to the important interests of entities outside the Federal Government, and (ii) under law or policy requires protection from unauthorized disclosure, special handling safeguards, or prescribed limits on exchange or dissemination. Henceforth, the designation CUI replaces Sensitive But Unclassified (SBU). White House Memorandum: Designation and Sharing of Controlled Unclassified Information (CUI), May 2008.</p> <p>Examples of CUI:</p> <ul style="list-style-type: none"> <li>• Information potentially exempt from disclosure under FOIA that is marked FOUO.</li> <li>• PII that is protected by the Privacy Act</li> <li>• Individuals' health information that is protected under HIPAA.</li> <li>• Other categories of sensitive information: <ul style="list-style-type: none"> <li>○ DoD Unclassified Controlled Nuclear Information</li> <li>○ Unclassified Technical Data</li> <li>○ Sensitive Acquisition Information</li> <li>○ Proprietary Information</li> <li>○ Foreign Government Information</li> <li>○ Drug Enforcement Agency (DEA) Sensitive Information</li> </ul> </li> <li>•</li> </ul>

DEROS	Date Eligible to Return from Overseas
DIEMS	Date of Initial Entry into Military Service
DOD	Department of Defense
DOR	Date of Rank
EM	Enlisted Servicemember
ETS	Expiration of Term of Service
FOUO	<p>For Official Use Only is a designation that is applied to unclassified information that may be exempt from mandatory release to the public under the Freedom of Information Act (FOIA). FOIA specifies nine (9) exemptions that may qualify certain information to be withheld from release to the public, if by its disclosure, a foreseeable harm would occur. DoD 5200.1-R, January 1997, Appendix 3.</p> <p>Privacy Act information qualifies for this exclusion and should be marked as FOUO. Place the FOUO marking at the bottom of each page or screen for unclassified sensitive material. For FOUO material to be included in a classified document, place the FOUO handling caveat at the top and bottom of each page or screen. When you create or receive documents with personal data, ensure there is a handling notice to accompany the data. Use the coversheet DD Form 2923 to safeguard records containing sensitive information from unauthorized disclosure before disseminating Privacy Act data.</p> <p>See also: CUI</p>
GCM	General Court-Martial
GCMCA	General Courts-Martial Convening Authority
GWOT	Global War On Terror
HHB	Headquarters and Headquarters Battery (Field Artillery Unit)
HHC	Headquarters and Headquarters Company
HMMWV	High Mobility Multipurpose Wheeled Vehicle
HOR	Home of Record or legal domicile
IAW	In accordance with
IADT	Initial Active Duty for Training
IDT	Inactive Duty Training
IOT	In order to
IRR	Individual Ready Reserves
LAD	Latest Arrive Date
MCM	Manual for Courts-Martial
MOS	Military Occupational Specialty for Enlisted
MRE	Military Rules of Evidence
MRPJ	Military Records Personnel Jacket. Compare to the OMPF.
MSO	Military Service Obligation
MUTA	Multiple Unit Training Assembly
NJP	Nonjudicial Punishment [Procedure]
NLT	No Later Than

NST	No Sooner Than
NSTR	Nothing Significant to Report
OCO	Overseas Contingency Operations
OCONUS	Outside the Continental United States
OEF	Operation Enduring Freedom
OER	Officer Evaluation Report
OIF	Operation Iraqi Freedom
OMPF	Official Military Personnel File. A servicemember's "permanent record" that follows him or her everywhere in the Service. Compare to the Military Records Personnel Jacket.
OND	Operation New Dawn
ORB	Officer Record Brief
OSD	Office of the Secretary of Defense
PAX	Personnel
PEBD	Pay Entry Basic Date: "The military pay and personnel systems use a variety of dates to determine various entitlements. Among them is the date which denotes how much service a member has for the purpose of determining longevity pay rates. The Army refers to this as the <b>pay entry basic date</b> , the Navy and Marine Corps refer to this as the pay entry base date, while the Air Force calls it simply the pay date." DoD Financial Management Regulation, Volume 7A, Chapter 01 [010101 General, para. A, p. 1]
PII	<p>Personally Identifiable Information. "Personal Information. Information about an individual that identifies, links, relates, or is unique to, or describes him or her (e.g., a Social Security number; age; military rank; civilian grade; marital status; race; salary; home or office phone numbers; other demographic, biometric, personnel, medical, and financial information, etc.). Such information also is known as personally identifiable information (e.g., information which can be used to distinguish or trace an individual's identity, such as his or her name; Social Security number; date and place of birth; mother's maiden name; and biometric records, including any other personal information which is linked or linkable to a specified individual). DoDD 5400.11, 8 May 2007)</p> <p>The basic duty to protect PII derive from the Privacy Act of 1974, signed into law in 1975. Also, the e-Government Act of 2002, which includes, as its third part, known as "Title III," the Federal Information Security Management Act, of FISMA. The Office of Management and Budget [OMB] is part of the Executive Office of the President of the United States and provides guidance to the agencies of the Executive Branch, including DoD, on how to implement these laws. Key documents from OMB are Circular A-130 and Memorandum M-07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information, 2007. Key DoD documents: DoD Directive 5400.11. DoD 5400.11-R. Use only NIST Federal Information</p>

	Processing Standard [FIPS] 140-2 compliant cryptographic modules.
PKI	Public Key Infrastructure
PMOS	Primary Military Occupational Specialty (for enlisted); <u>See also</u> MOS, servicemember OS
POC	Personally Owned Conveyance
POV	Personally Owned Vehicle.
RC	Reserve Component
RCAS	Reserve Component Automation System
RCM	Rules for Courts-Martial
RCP	Remote Communications Processor
REFRAD	A brevity code IAW AR 25-52 that means “Release from Active Duty.” <u>See</u> AR 25-52 (dtd 04 Jan 05), p. 8.
ROC	<u>Rehearsal of Concept</u> . As in ROC drill, a briefing to go over a proposed action/mission.
ROE	Rules of Engagement
ROI	Report of Investigation
RPAS	Retirement Points Account(ing) System
RTD	Return to Duty
RTP	Request for Technical Proposal
RUF	Rules for the Use of Force
SAD	State Active Duty. “State active duty [Sactive duty] is a status pursuant to state law only and is funded by the state, unlike the status in which the National Guard trains for its federal mission pursuant to Title 32 of the United States Code [Title 32 status]. The National Guard in a state active duty status may, however, use certain federal equipment, subject to a requirement for reimbursement for that use. In state active duty status, National Guard Bureau and Active Army regulations do not usually apply unless the state has adopted those regulations as a matter of state law.” Domestic Operations 2009, p236
SBU	Sensitive But Unclassified (SBU). This designation has been replaced by Controlled Unclassified Information (CUI). <u>See</u> above.
SGE	Special Governmental Employee
SGLI	Serviceman’s Group Life Insurance
SOF	Special Ops Forces
SOFA	Status of Force Agreement
STB	Sustainment Brigade
TCS	Temporary Change of Station; Task-Condition-Standard
TDY	Temporary Duty.
TMC	Troop Medical Clinic (Dispensary)
TOC	Tactical Operations Center [Compare with LOC]
TOE	Table of Organization and Equipment
TPU	Troop Program Unit
UAH	Up Armored HMMWV
UCMJ	Uniform Code of Military Justice
USAR	United States Army Reserve

USARC	U.S. Army Reserve Command
USARCS	United States Army Claims Service. <u>See</u> FM 1-04 (27-100), Legal Support to the Operational Army (April 2009), Glossary, p2.
WARNO	Warning Order. It is the method to get information out to a unit about imminent orders/operations. It is the preliminary notice of an order or action that is to follow. Warning orders maximize subordinates planning time, providing essentials details of what is to come. E.g., 'Going somewhere at 1100.' <u>See</u> FM 3-0, 3-21.8, 3-21.10. Warning order is one of five basic types of orders. The rest are: operations order, service and support order, movement order, and a fragmentary order.
WRT	with regard to

## LIST OF USEFUL WEBSITES

### American Bar Association (ABA) Home Front

ABA Home Front is a resource provided by the organization to help current servicemembers and veterans and their families to locate legal information, potential referrals and representation regarding civil legal issues.

[http://www.americanbar.org/portals/public\\_resources/aba\\_home\\_front.html](http://www.americanbar.org/portals/public_resources/aba_home_front.html)

### Consumer Financial Protection Bureau Administered Regulations

List of regulations administered and enforced by the CFPB, including a link to the electronic code of each regulation.

<http://www.consumerfinance.gov/regulations/>

### Department of Defense Servicemember Database

Department of Defense database to confirm military status of a particular individual.

<https://www.dmdc.osd.mil/appj/scra/scraHome.do>

### Department of Defense Directory of Military & Associated Terms (Joint Pub. 1-02)

[http://www.dtic.mil/doctrine/new\\_pubs/jp1\\_02.pdf](http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf)

### Department of Justice Legal Resources for Servicemembers

Legal resource website covering the Civil Rights Division's mission to enforce the SCRA, USERRA and the Uniformed and Overseas Citizens Absentee Voting Act.

[http://www.justice.gov/crt/spec\\_topics/military/](http://www.justice.gov/crt/spec_topics/military/)

### Department of Veterans Affairs

List of Accredited Representatives, agents, and attorneys (provided by the Office of General Counsel): <http://www.va.gov/ogc/apps/accreditation/index.asp>



## Federal Trade Commission (FTC) Consumer SENTINEL-Military

<http://www.ftc.gov/sentinel/military/index.shtml>

## House Committee on Veterans' Affairs

U.S. House of Representative's Committee on Veterans' Affairs addresses issues concerning veterans generally, including veterans compensation, vocational rehabilitation, education, cemeteries, life insurance, pensions, readjustment to civilian life, hospitals and healthcare, as well as issues pertaining to the Service Members Civil Relief Act.

[veterans.house.gov](http://veterans.house.gov)

## Marine Corps: Legal Assistance

Staff Judge Advocate to the Commandant, Headquarters, U.S. Marine Corps, Judge Advocate Division Legal Assistance Branch (JAL)

[http://www.home.marines.mil/sja/Branches/LegalAssistanceBranch\(JAL\).aspx](http://www.home.marines.mil/sja/Branches/LegalAssistanceBranch(JAL).aspx)

## Military OneSource

Military OneSource is a website provided by the Department of Defense to the service members in the active component, the National Guard, and the Reserves. It is an information portal covering a wide array of topics and services.

<http://www.militaryonesource.mil/>

## Military Service Records

Records of veterans who are completely discharged (with no remaining reserve commitment), or who are retired or have died, are available at the National Archives and Records Administration.

[http://www.foia.va.gov/ext\\_redirect.asp?url=http://www.archives.gov/st-louis/military-personnel/&type=3](http://www.foia.va.gov/ext_redirect.asp?url=http://www.archives.gov/st-louis/military-personnel/&type=3)

## Navy: Legal Assistance Locator

U.S. Navy Judge Advocate General's Corps Region Legal Service Office (RLSO) Locator

[http://www.jag.navy.mil/legal\\_services/legal\\_services\\_locator\\_rlsos.htm](http://www.jag.navy.mil/legal_services/legal_services_locator_rlsos.htm)

## SAMPLE MILITARY/CONSUMER LETTERS

### SCRA, 50 U.S.C. app. 501, Sample Letters

#### Sample 6% Interest Rate Cap Letter

(Name and Address of Servicemember)

(Date)

(Name and Address of Institution)

Re: Interest Rate Reduction for Acct # \_\_\_\_\_

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)** and am requesting that my monthly obligation including payments and interest on my account be reduced pursuant to my rights under the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 et seq. My entry into military service has materially affected my ability to meet this obligation which I incurred prior to my entry of active duty at the original interest rate or as it exists currently.

The SCRA (50 U.S.C. App. § 527) sets a 6% per annum ceiling on interest charges (including service charges, renewal charges, and fees) during the period of a servicemember's military service for obligations made before entry onto active duty when the active duty materially affects the ability to pay. Thus, the balance of my obligation may not have interest charged at a rate greater than 6% per annum and any interest above 6% must be forgiven and not accrued. Note that compliance with this law is mandatory upon the creditor once the servicemember makes a request. Failure to comply with such a request can subject the creditor to damages.

Please ensure that your records are amended and or corrected to reflect that my obligation has been reduced to no more than the statutory ceiling rate of 6% and that any excess charge is withdrawn. It is my understanding that certain business entities have reduced their original interest rate to less than 6% as a good faith gesture in support of our country's military personnel and the important mission they serve. Please be further advised that you may not repossess for non-payment of an installment obligation without first complying with the provisions of the SCRA (including Section 532).

Thank you in advance for your attention and prompt action to this matter. Should there be any questions, please feel free to contact me at the above address.

Sincerely,

\_\_\_\_\_  
(Name of servicemember)

Encl:

Deployment Orders

## Sample Termination of Automobile Lease Letter

(Name and Address of Servicemember)

(Date)

(Name and Address of Institution)

Re: Turning Over Vehicle VIN **(Fill in VIN of vehicle)** Pursuant to the SCRA

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)**. I am the lessee of **(fill in year, make, model, and VIN of leased vehicle)** and I am invoking my rights under the Servicemembers Civil Relief Act, 50 App. U.S.C. § 501 et seq. My deployment has materially affected both my ability to pay for and my need for the vehicle.

Section 535(b)(2) of the SCRA allows a servicemember to terminate an automobile lease if the servicemember receives deployment orders for greater than 180 days. In this case, I will be deployed to **(place deployed to)** for at least **(number of days of ordered deployment)**. I have attached a copy of my orders for your file.

In accordance with 50 App. U.S.C. § 535(c), I have mailed this notice via certified mail, return receipt requested and I have already left the vehicle with **(lessor and contact person with the lessor)**. The representative with whom I have been working with at **(name of lessor)** is **(name of contact person)**, and **(he/she)** may be reached at **(phone number for contact person with the lessor)**. Therefore, in accordance with 50 App. U.S.C. § 535(d)(2), the effective date of termination is the postmark date of this letter.

Thank you in advance for your cooperation in this matter, and please feel free to contact me at **(your phone number or the number of someone holding a power of attorney to handle this matter)**.

Sincerely,

---

Encls:  
Deployment Orders  
Lease Contract

## Sample Termination of Rental Property Letter

(Name and Address of Servicemember)

(Date)

(Name and Address of Property Management Company or Landlord)

Re: Termination of Residential Lease

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)**. I am the lessee of **(address of rental residence)** and am invoking my rights under the Servicemembers Civil Relief Act, 50 App. U.S.C. § 501 et seq. My deployment has materially affected my need for this rental property.

Section 535(b)(1) of the SCRA allows a servicemember to terminate a residential lease if the servicemember receives deployment orders for greater than 90 days. In this case, I will be deployed to **(place deployed to)** for at least **(number of days of ordered deployment)**. I have attached a copy of my orders for your file.

In accordance with 50 App. U.S.C. § 535(c), I have mailed this notice via certified mail, return receipt requested **(notice can also be hand delivered)**. Therefore, in accordance with 50 App. U.S.C. § 535(d)(1), the effective date of termination is 30 days after the first date on which the next rental payment is due and payable after the date on which this notice was delivered (or agreed upon termination date).

I will mail/drop off my keys when I have vacated the rental premises. All security deposits and prorated future rents paid must be returned to me within thirty (30) days of the termination date of this lease. Please mail these monies to: **(address money should be sent to)**.

Thank you in advance for your cooperation in this matter, and please feel free to contact me at **(your phone number or the number of someone holding a power of attorney to handle this matter)**.

Sincerely,

---

Encls:  
Deployment Orders  
Lease Contract

## Sample Stay of Proceeding Letter from an Attorney

(Name and Address of Servicemember)

(Date)

(Name and Address of Opposing Counsel/Judge)

Re: Requesting a Stay of Proceedings: **(Name of Action/Caption)**

Dear Sir/Ma'am:

I am **(description of who you are and firm/agency you are with)**. I am writing on behalf of **(name of servicemember)**, who contacted me because he is the (proposed) Defendant in the case of **(case caption)** in which you have been hired to represent **(opposing counsel's client)**.

Please note that I am not the attorney of record for purposes of representing **(name of servicemember)** in this civil matter. It is a function of my office to assist and advise servicemembers concerning the necessary steps to initially protect their interests.

**(Name of servicemember)** is presently on active duty and is assigned to **(unit information and location)**. As such, he is afforded certain rights under the Servicemember's Civil Relief Act (SCRA), as amended, 50 U.S.C. Appendix, Sections 501-596 (2005). Section 522 of the SCRA states that a court shall, upon application by the servicemember, grant a stay in a civil action for a period of not less than 90 days.

**(Name of servicemember)** hereby applies for protection from further proceedings in the civil action pending filing against him for a period of twelve (12) months. Please find attached a letter from **(name of servicemember)** commanding officer indicating that his military service materially affects his ability to conduct a defense. Based on **(name of servicemember)** current military deployment, he will not be able to attend any proceedings subsequently scheduled in this case.

In accordance with 50 U.S.C. App. §522(c), an application for a stay under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense, including a defense relating to lack of personal jurisdiction. This letter is not to be construed as either a submission to jurisdiction without lawful service or an appearance by or on behalf of **(name of servicemember)**. Additionally, this letter is not to serve as any form of answer to any petition, motion or complaint filed by **(name of servicemember)**.

I reiterate that my involvement in this case extends only to the preliminary counsel and assistance afforded to servicemembers by legal assistance attorneys. I (am not/will not be) the attorney of record for **(name of servicemember)** in this civil matter.

Because **(name of servicemember)** military service prevents his appearance, I request that you advise the court of his status and request a stay until after **(date of estimated return)**. Finally, **(name of servicemember)** requests that you notify him of any action concerning the civil case, particularly in regard to the status of any resulting stay of proceedings. In this regard, this information may be provided to him at the following address:

**(Servicemember's name and unit address (or address of family receiving mail))**

Thank you in advance for your help in affording **(name of servicemember)** an opportunity to participate in the legal process while meeting his obligations to the defense of our nation.

Sincerely,

---

Name and signature block of attorney

Encl: Memorandum from Commander  
CC: **(Servicemember)**

## Sample Stay of Proceeding Letter from Military Commander

(Name and Address of Commander and Unit)

(Date)

(Name and Address of Opposing Counsel/Judge)

Re: Requesting a Stay of Proceedings: **(Name of Action/Caption)**

Dear Sir/Ma'am:

I am an officer in the United States Army writing on behalf of **(name of servicemember)**, who is the proposed defendant in the case of **(case caption)**. **(Name of servicemember)** is currently deployed in support **(OIF/OEF and where stationed)**. He is assigned to my command.

**(Name of servicemember)** will be unable to attend any hearings, present any type of defense, or effectively protect his interests in the matter in question until **(estimated date of return)** because of his military duties. Until this date, **(name of servicemember)** is mission essential to our unit as a **(duty title/position)**. My legal officer advises me that federal law allows a stay of proceedings for servicemembers on active duty when their ability to defend themselves is materially affected by their military service (50 U.S.C. App. § 521). In this instance, **(name of servicemember)** critical role in the national security mission of this command precludes his participation in court proceedings until not earlier than **(estimated date of return)**. He will be unable to present any defense at all due to his deployed status.

**(Name of servicemember)** hereby applies for protection from further proceedings in the civil action pending filing against him for a period of **(length of time gone)** to properly attend to both his obligation to his unit and this legal proceeding. I will ensure that he is available upon return from deployment to appear at the next scheduled court date after **(estimated date of return)**.

I should note that I am not an attorney and am not making this request based on any attorney-client relationship between myself and **(name of servicemember)**. I am not representing **(name of servicemember)** with regard to the proceedings pending. This letter should not be considered an appearance by **(name of servicemember)**. Rather, it is a request in my capacity as a commander charged with a mission supporting the national security of this nation, that you delay the proceedings to allow this soldier to perform his critical part in that mission.

Thank you in advance for your assistance in this matter. I request that you inform me or **(name of servicemember)**, at the above address, of any action taken regarding this request.

Sincerely,

Commander's Signature Block

Deployment Orders

CC: **(Name of servicemember)**

**State Law Consumer Sample Letters [Illinois Patriot Plan, Public Act 94-635]**

**Sample ILLINOIS 6% Interest Rate Cap Letter**

(Name and Address of Servicemember)

(Date)

(Name and Address of Institution)

Re: Interest Rate Reduction for Acct # \_\_\_\_\_

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)** and am requesting that my monthly obligation including payments and interest on my account be reduced pursuant to my rights under the Illinois Patriot Plan, PA 094-0635 and the Interest Act, 815 ILCS 205/4.05. My entry into military service has materially affected my ability to meet this obligation, which I incurred prior to my entry on active duty, at the original interest rate or as it exists currently.

The Illinois Patriot Plan and The Interest Act sets a 6% per annum ceiling on interest charges (including service charges, renewal charges, and fees) during the period of a servicemember's military service for obligations made before entry onto active duty when the active duty materially affects the ability to pay. Thus, the balance of my obligation may not have interest charged at a rate greater than 6% per annum and any interest above 6% must be forgiven and not accrued. Note that compliance with this law is mandatory upon the creditor once the soldier makes a request. Failure to comply with such a request can subject the creditor to civil penalty.

Please ensure that your records are amended and or corrected to reflect that my obligation has been reduced to no more than the statutory ceiling rate of 6% and that any excess charge is withdrawn. It is my understanding that certain business entities have reduced their original interest rate to less than 6% as a good faith gesture in support of our country's military personnel and the important mission they serve.

Thank you in advance for your attention and prompt action to this matter. Should there be any questions, please feel free to contact me at the above address.

Sincerely,

\_\_\_\_\_  
(Name of servicemember)

Encl:  
Deployment Orders



## Sample ILLINOIS Termination of Automobile Lease Letter

(Name and Address of Servicemember)

(Date)

(Name and Address of Institution)

Re: Turning Over Vehicle VIN **(fill in VIN of vehicle)** Pursuant to the Illinois Patriot Act and the Motor Vehicle Leasing Act

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)**. I am the lessee of **(fill in year, make, model, and VIN of leased vehicle)** and am I am invoking my rights under the Illinois Patriot Plan, PA 094-0635 and the Motor Vehicle Leasing Act, 815 ILCS 636/37. My deployment has materially affected both my ability to pay for and my need for the vehicle.

The Illinois Patriot Plan and the Motor Vehicle Leasing Act allows a servicemember to terminate an automobile lease if the servicemember receives deployment orders for greater than 180 days. In this case, I will be deployed to **(place deployed to)** for at least **(number of days of ordered deployment)**. I have attached a copy of my orders for your file.

In accordance with 815 ILCS 636/37(c) I have mailed this notice via certified mail, return receipt requested and I have already left the vehicle with **(name of lessor and contact person with the lessor)**. The representative with whom I have been working with at **(name of lessor)** is **(name of contact person)**, and **(he/she)** may be reached at **(phone number for contact person with lessor)**. (Effective date of termination is the date that both requirements of 815 ILCS 636/37(c) are satisfied.)

Thank you in advance for your cooperation in this matter, and please feel free to contact me at **(your phone number or the number of someone holding a power of attorney to handle this matter)**.

Sincerely,

---

Encls:

Deployment Orders

Lease Contract

## Sample ILLINOIS Cellular Phone Contract Termination Letter

(Name and Address of Servicemember)

(Date)

(Name and Address of Institution)

Re: Termination of Cellular Phone Contract, Phone # \_\_\_\_\_

Dear Sir/Ma'am:

I have been placed on active duty with the Armed Forces of the United States effective **(fill in date placed on active duty)**. I currently have a cellular phone contract with you, **Phone #** \_\_\_\_\_, and am I am invoking my rights under the Illinois Patriot Plan, PA 94-0635 and the Military Personnel Cellular Phone Contract Termination Act, 815 ILCS 633/10. My deployment has materially affected my need for and ability to use this cellular phone.

The Illinois Patriot Plan allows a servicemember to terminate a cellular phone contract without penalty. I will be deployed to **(place deployed to)** for at least **(number of days of ordered deployment)**. I have attached a copy of my orders for your file.

In accordance with the Illinois Patriot Plan I have mailed this notice via certified mail, return receipt requested. Effective date of termination of this cellular phone contract will be thirty (30) days after the date of this notice, **(actual termination date)**.

Thank you in advance for your cooperation in this matter, and please feel free to contact me at **(your phone number or the number of someone holding a power of attorney to handle this matter)**.

Sincerely,

\_\_\_\_\_

Encs:

Deployment Orders

Cellular Phone Contract

**To:** Bresnick, Michael J (ODAG) [REDACTED]@usdoj.gov]  
**From:** Hochul, William (USANYW)  
**Sent:** Wed 3/20/2013 5:53:34 PM  
**Subject:** FW: REMARKS AS PREPARED FOR DELIVERY BY FINANCIAL FRAUD ENFORCEMENT TASK FORCE EXECUTIVE DIRECTOR MICHAEL J. BRESNICK AT THE EXCHEQUER CLUB OF WASHINGTON, D.C.

Well done, Mike!

Bill

William J. Hochul, Jr.

United States Attorney

Western District of New York

[REDACTED]

[REDACTED]

[REDACTED]

**From:** USDOJ-Office of Public Affairs (SMO) [mailto:USDOJ-Office.of.Public.Affairs@usdoj.gov]  
**Sent:** Wednesday, March 20, 2013 1:20 PM  
**To:** USDOJ-Office of Public Affairs (SMO) (JMD)  
**Subject:** REMARKS AS PREPARED FOR DELIVERY BY FINANCIAL FRAUD ENFORCEMENT TASK FORCE EXECUTIVE DIRECTOR MICHAEL J. BRESNICK AT THE EXCHEQUER CLUB OF WASHINGTON, D.C.

HOGR-3PPP000827



# Department of Justice



FOR IMMEDIATE RELEASE

OPA

WEDNESDAY, MARCH 20, 2013

(202) 514-2007

WWW.JUSTICE.GOV

TTY (866) 544-

5309

**REMARKS AS PREPARED FOR DELIVERY BY**

**FINANCIAL FRAUD ENFORCEMENT TASK FORCE EXECUTIVE DIRECTOR**

**MICHAEL J. BRESNICK AT THE EXCHEQUER CLUB OF WASHINGTON, D.C.**

WASHINGTON, D.C.

Good afternoon. Thank you for that kind introduction, and thank you all for having me here today. I'd especially like to thank John Ryan, my friend and President and Chief Executive Officer of the Conference of State Bank Supervisors, for inviting me to speak.

As you heard, I am the Executive Director of President Barack Obama's Financial Fraud Enforcement Task Force. It has been my great pleasure to lead this Task Force for the past year and a half, and to work closely with Attorney General Eric Holder, Deputy Attorney General James Cole, Acting Associate Attorney General Tony West, and so many others throughout government. The Task Force was created in 2009 with the understanding that no matter the office or agency -- federal, state, or local; law enforcement or regulatory -- all of us within government share a common desire and have a core obligation to do everything that we can to protect the American public from the often devastating effects of financial fraud, whether it be mortgage fraud or investment fraud, grant or procurement fraud, consumer fraud or fraud in lending. And we know that we can accomplish so much more by working together than by working in isolated, compartmentalized silos. Through the efforts of the Financial Fraud

HOCR-3PPP000828

Enforcement Task Force, that's exactly what we've done.

Today I'm going to start by telling you about some of our recent accomplishments -- which were only made possible by our working together -- and then move on to a few priorities we will be focusing on in the coming year.

Just recently Task Force members announced the filing of parallel civil complaints -- by the Department of Justice and more than ten states -- against the ratings agency Standard and Poor's, shedding a powerful light on conduct that went to the heart of the recent financial crisis. The Department alleged that from at least 2004 to 2007, S&P lied about its objectivity and independence. The evidence revealed that S&P promised investors and the public that their ratings were based on data and analytical models reflecting the company's true credit judgment. In fact, internal S&P documents made clear that the company regularly altered, or delayed altering, its ratings models to suit the company's own business interests. We also alleged that from at least March 2007 to October 2007, S&P issued ratings for certain CDOs that it knew were inflated at the time it issued them. By working closely with the states, and coordinating our collective efforts, we have never been more strategic, or effective.

Moreover, in Fiscal Year 2012, the Department, in close partnership with the U.S. Department of Housing and Urban Development and its Office of Inspector General, sued for or settled claims with banks for losses related to the mortgage crisis totaling over \$2 billion, including recovering nearly \$500 million from settlements with Deutsche Bank AG, CitiMortgage and Flagstar Bank.

Through the Task Force's Non-Discrimination Working Group, in coordination with our partners at the OCC, Federal Reserve, and many others, our enforcement of fair lending laws has never been more robust. Since 2010 the Civil Rights Division's Fair Lending Unit has filed or resolved 24 lending matters under the Fair Housing Act, the Equal Credit Opportunity Act, and the Servicemembers Civil Relief Act. The resolutions in these matters provide for a minimum of \$660 million in monetary relief for impacted communities and for more than 300,000 individual borrowers.

The Residential Mortgage-Backed Securities Working Group is actively investigating fraud in the securitization and sale of residential mortgage-backed securities -- conduct that contributed to the financial crisis. Already we have seen significant action from Working Group members, including complaints filed against Credit Suisse and J.P. Morgan by the New York

Attorney General's Office, with the Department of Justice having offered substantial assistance by interviewing witnesses, reviewing documents, and providing additional investigative support. And the Securities and Exchange Commission entered into settlements with both J.P. Morgan and Credit Suisse totaling more than \$400 million. Many more investigations are ongoing.

Mortgage Fraud Working Group members are creating training sessions for federal and state prosecutors and civil attorneys, as well as arming distressed homeowners with the information they need to avoid becoming victims of fraud. And efforts by the Consumer Protection Working Group to protect servicemembers and their families from predators targeting them as vulnerable marks includes recently creating and disseminating enforcement tool-kits to state attorneys general, U.S. Attorneys' Offices, and JAG legal assistance officers that provide an overview of common scams targeting members of the military, available federal and state laws to address these schemes, opportunities for support from federal and state partners, and sample legal materials.

As you can see, the Task Force, through its spirited and energetic members, is tackling financial fraud on many fronts, with a focus on enforcement, prevention, and victim assistance. And by working together, we are able to identify fraud trends occurring throughout the country, develop priorities and national fraud enforcement strategies, create and coordinate national initiatives, and establish training events and guidance for our nation's criminal prosecutors and civil attorneys. It is an example of what we can accomplish when we eliminate unnecessary boundaries and work together towards a common goal.

While the Task Force has done, and continues to do, much in these and other areas, I'd now like to discuss a few additional issues that we have prioritized, among others.

First, Task Force members have been focused on the government's ability to protect its interests and ensure that it does business only with ethical and responsible parties. According to a recent GAO report, in Fiscal Year 2010 government spending on contracted goods and services was more than \$535 billion. Accordingly, we are encouraging greater cooperation with government agencies involved in the suspension and debarment process, actions taken to exclude businesses or individuals who are not behaving in an ethical and lawful manner from receiving contracts.

Second, the Non-Discrimination Working Group has placed an increased focus on enforcement of discrimination by auto lenders. Currently, the law does not require auto lenders

to give consumers the best interest rate they qualify for, and does not prohibit lenders from basing compensation on the ability to charge higher interest rates. As we found in the mortgage context, however, this practice may violate the fair lending laws if it causes minorities to be charged more than similarly qualified white borrowers. The Department's Civil Rights Division is working closely with Consumer Financial Protection Bureau on this issue.

And third, the Consumer Protection Working Group has prioritized the role of financial institutions in mass marketing fraud schemes -- including deceptive payday loans, false offers of debt relief, fraudulent health care discount cards, and phony government grants, among other things -- that cause billions of dollars in consumer losses and financially destroy some of our most vulnerable citizens. The Working Group also is investigating the businesses that process payments on behalf of the fraudulent merchants -- financial intermediaries referred to as third-party payment processors. It's this third priority that I'd like to discuss in a little more detail.

The reason that we are focused on financial institutions and payment processors is because they are the so-called bottlenecks, or choke-points, in the fraud committed by so many merchants that victimize consumers and launder their illegal proceeds. For example, third-party payment processors are frequently the means by which fraudulent merchants are able to get paid. They provide the scammers with access to the national banking system and facilitate the movement of money from the victim of the fraud to the scam artist. And financial institutions through which these fraudulent proceeds flow, we have seen, are not always blind to the fraud. In fact, we have observed that some financial institutions actually have been complicit in these schemes, ignoring their BSA/AML obligations, and either know about -- or are willfully blind to -- the fraudulent proceeds flowing through their institutions.

Our prioritization of this issue is based on this principle: If we can eliminate the mass-marketing fraudsters' access to the U.S. financial system -- that is, if we can stop the scammers from accessing consumers' bank accounts -- then we can protect the consumers and starve the scammers. This will significantly reduce the frequency of and harm caused by this type of fraud. We hope to close the access to the banking system that mass marketing fraudsters enjoy -- effectively putting a chokehold on it -- and put a stop to this billion dollar problem that has harmed so many American consumers, including many of our senior citizens.

Sadly, what we've seen is that too many banks allow payment processors to continue to maintain accounts within their institutions, despite the presence of glaring red flags indicative of fraud, such as high return rates on the processors' accounts. High return rates trigger a duty by the bank and the third-party payment processor to inquire into the reasons for the high rate of returns, in particular whether the merchant is engaged in fraud.

Nevertheless, we have actually seen instances where the return rates on processors' accounts have exceeded 30%, 40%, 50%, and, even 85%. Just to put this in perspective, the industry average return rate for ACH transactions is less than 1.5%, and the industry average for all bank checks processed through the check clearing system is less than one-half of one percent. Return rates at the levels we have seen are more than red flags. They are ambulance sirens, screaming out for attention.

A perfect example of the type of activity I'm talking about is the recent complaint against the First Bank of Delaware filed by the Department in the Eastern District of Pennsylvania, in Philadelphia. There, investigators found that in just an eleven-month period from 2010 to 2011, the First Bank of Delaware permitted four payment processors to process more than \$123 million in transactions. Amazingly, more than half of the withdrawal transactions that the bank originated during this time were rejected, either because the consumer complained that the transaction was unauthorized, there were insufficient funds to complete the transaction, or the account was closed, each of which may indicate potential fraud and trigger the need for further inquiry. But the bank did nothing. Nothing, but continue to collect its fees per transaction, while consumers continued to get gouged by unscrupulous scam artists. Ultimately, the government alleged that the bank was engaged in a scheme to defraud under the Financial Institutions Reform, Recovery, and Enforcement Act and the bank agreed to pay a civil money penalty before surrendering its charter and closing its doors.

Underscoring the importance of this case, in the press release announcing a parallel action with the Financial Crimes Enforcement Network, the Acting Chairman of the FDIC, Martin Gruenberg, said, "Effective Bank Secrecy Act and anti-money laundering programs that are commensurate with the risk profile of the institution are vital to protecting our financial system." He added that "[t]he significant penalty assessed in this case emphasizes the importance of having strong internal controls to assure compliance with anti-money laundering regulations and to detect and report potential money laundering or other illicit financial activities."

So, the First Bank of Delaware is a model of irresponsible behavior by a bank.

Of course, this conduct is completely unacceptable. And it is receiving significant attention from the Department of Justice. In fact, right now within the Civil Division there are attorneys and investigators who are investigating similar unlawful conduct, and they will not hesitate to act when they see evidence of wrongdoing. Our message to banks is this:



Maintaining robust BSA/AML policies and procedures is not merely optional or a polite suggestion. It is absolutely necessary, and required by law. Failure to do so can result in significant civil, or even criminal, penalties under the Bank Secrecy Act, FIRREA, and other statutes.

Consequently, banks should endeavor not only to know their customers, but also to know their customers' customers. Before they agree to do business with a third-party payment processor, banks should strive to learn more about the processors' merchant-clients, including the names of the principals, the location of the business, and the products being sold, among other things. If they are going to allow their institutions to be used by others as a gateway to access the bank accounts of our nation's consumers, banks need to know for whom they are processing payments. Because if they don't, they might be allowing some unscrupulous scam artist to be taking the last dollars of a senior citizen who fell prey to another fraud scheme, and hundreds of millions of dollars of additional proceeds of fraud to flow through their institutions. And in that case, they might later find themselves in the unfortunate position of the First Bank of Delaware.

In addition, as part of our focus on the role of financial institutions and third-party payment processors in mass-marketing fraud schemes, we naturally also are examining banks' relationship with the payday lending industry, known widely as a subprime and high-risk business. We are aware, for instance, that some payday lending businesses operating on the Internet have been making loans to consumers in violation of the state laws where the borrowers reside. And, as discussed earlier, these payday lending companies are able to take the consumers' money primarily because banks are originating debit transactions against consumers' bank accounts. This practice raises some questions.

As you know, the Bank Secrecy Act demands that banks have effective compliance programs to prevent illegal use of the banking system by the banks' clients. Bank regulatory guidance exhorts banks to collect information sufficient to determine whether a client poses a threat of criminal or other unlawful conduct.

Banks, therefore, should consider whether originating debit transactions on behalf of Internet payday lenders -- particularly where the loans may violate state laws -- is consistent with their BSA obligations.

Understandably, it may not be so simple a task for a bank to determine whether the loans

being processed through it are in violation of the state law where the borrower resides. The ACH routing information, for example, may not indicate to the bank in which state the consumer lives, and variations in state laws could preclude blanket conclusions. Yet, at a minimum, banks might consider determining the states where the payday lender makes loans, as well as what types of loans it offers, the APR of the loans, and whether it make loans to consumers in violation of state, as well as federal, laws. By asking these questions, a bank may become aware of certain red flags, inviting further scrutiny and further action. The bury-your-head-in-the-sand approach, to the contrary, is certain to result in no action, even where some might be warranted, and is fraught with danger to consumers.

It comes down to this: When a bank allows its customers, and even its customers' customers, access to the national banking system, it should endeavor to understand the true nature of the business that it will allow to access the payment system, and the risks posed to consumers and society regarding criminal or other unlawful conduct.

As I said at the outset, we in government share a unity of purpose and a common resolve to tackle the most pressing financial fraud issues of our time, and know that we must work together if we are to be successful in protecting the American public from harm. We are committed to doing so, and are approaching these issues in a smart, systematic, and coordinated way.

It has been a pleasure to address this distinguished group today. I thank you, again, for the opportunity, and now look forward to addressing any questions you may have.

####

DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE OFFICE OF PUBLIC AFFAIRS AT 202-514-2007.

HOCR-3PPP000834

**REMARKS**

**OF**

**MICHAEL J. BRESNICK  
EXECUTIVE DIRECTOR  
FINANCIAL FRAUD ENFORCEMENT TASK FORCE  
OFFICE OF THE DEPUTY ATTORNEY GENERAL  
U.S. DEPARTMENT OF JUSTICE**

**AT THE**

**EXCHEQUER CLUB OF WASHINGTON, D.C.**

**ON**

**WEDNESDAY, MARCH 20, 2013**

**ST. REGIS HOTEL  
WASHINGTON, D.C.**

Good afternoon. Thank you for that kind introduction, and thank you all for having me here today. I'd especially like to thank John Ryan, my friend and President and Chief Executive Officer of the Conference of State Bank Supervisors, for inviting me to speak.

As you heard, I am the Executive Director of President Barack Obama's Financial Fraud Enforcement Task Force. It has been my great pleasure to lead this Task Force for the past year and a half, and to work closely with Attorney General Eric Holder, Deputy Attorney General James Cole, Acting Associate Attorney General Tony West, and so many others throughout government. The Task Force was created in 2009 with the understanding that no matter the office or agency -- federal, state, or local; law enforcement or regulatory -- all of us within government share a common desire and have a core obligation to do everything that we can to protect the American public from the often devastating effects of financial fraud, whether it be mortgage fraud or investment fraud, grant or procurement fraud, consumer fraud or fraud in lending. And we know that we can accomplish so much more by working together than by working in isolated, compartmentalized silos. Through the efforts of the Financial Fraud Enforcement Task Force, that's exactly what we've done.

Today I'm going to start by telling you about some of our recent accomplishments -- which were only made possible by our working together -- and then move on to a few priorities we will be focusing on in the coming year.

Just recently Task Force members announced the filing of parallel civil complaints -- by the Department of Justice and more than ten states -- against the ratings agency

Standard and Poor's, shedding a powerful light on conduct that went to the heart of the recent financial crisis. The Department alleged that from at least 2004 to 2007, S&P lied about its objectivity and independence. The evidence revealed that S&P promised investors and the public that their ratings were based on data and analytical models reflecting the company's true credit judgment. In fact, internal S&P documents made clear that the company regularly altered, or delayed altering, its ratings models to suit the company's own business interests. We also alleged that from at least March 2007 to October 2007, S&P issued ratings for certain CDOs that it knew were inflated at the time it issued them. By working closely with the states, and coordinating our collective efforts, we have never been more strategic, or effective.

Moreover, in Fiscal Year 2012, the Department, in close partnership with the U.S. Department of Housing and Urban Development and its Office of Inspector General, sued for or settled claims with banks for losses related to the mortgage crisis totaling over \$2 billion, including recovering nearly \$500 million from settlements with Deutsche Bank AG, CitiMortgage and Flagstar Bank.

Through the Task Force's Non-Discrimination Working Group, in coordination with our partners at the OCC, Federal Reserve, and many others, our enforcement of fair lending laws has never been more robust. Since 2010 the Civil Rights Division's Fair Lending Unit has filed or resolved 24 lending matters under the Fair Housing Act, the Equal Credit Opportunity Act, and the Servicemembers Civil Relief Act. The resolutions in these matters provide for a minimum of \$660 million in monetary relief for impacted communities and for more than 300,000 individual borrowers.

The Residential Mortgage-Backed Securities Working Group is actively

investigating fraud in the securitization and sale of residential mortgage-backed securities -- conduct that contributed to the financial crisis. Mortgage Fraud Working Group members are creating training sessions for federal and state prosecutors and civil attorneys, as well as arming distressed homeowners with the information they need to avoid becoming victims of fraud. And efforts by the Consumer Protection Working Group to protect servicemembers and their families from predators targeting them as vulnerable marks includes recently creating and disseminating enforcement tool-kits to state attorneys general, U.S. Attorneys' Offices, and JAG legal assistance officers that provide an overview of common scams targeting members of the military, available federal and state laws to address these schemes, opportunities for support from federal and state partners, and sample legal materials.

As you can see, the Task Force, through its spirited and energetic members, is tackling financial fraud on many fronts, with a focus on enforcement, prevention, and victim assistance. And by working together, we are able to identify fraud trends occurring throughout the country, develop priorities and national fraud enforcement strategies, create and coordinate national initiatives, and establish training events and guidance for our nation's criminal prosecutors and civil attorneys. It is an example of what we can accomplish when we eliminate unnecessary boundaries and work together towards a common goal.

While the Task Force has done, and continues to do, much in these and other areas, I'd now like to discuss three additional issues that we have prioritized.

First, Task Force members, through the Recovery Act, Grant, and Procurement Fraud Working Group, have focused intently on the government's ability to protect its

interests and ensure that it does business only with ethical and responsible parties. According to a recent GAO report, in 2010 government spending on contracted goods and services was more than \$535 billion. Accordingly, we are encouraging greater cooperation with government agencies involved in the suspension and debarment process, actions taken to exclude businesses or individuals who are not behaving in an ethical and lawful manner from receiving contracts.

Second, the Non-Discrimination Working Group has placed an increased focus on enforcement of discrimination by auto lenders. Currently, the law does not require auto lenders to give consumers the best interest rate they qualify for, and does not prohibit lenders from basing compensation on the ability to charge higher interest rates. As we found in the mortgage context, however, this practice may violate the fair lending laws if it causes minorities to be charged more than similarly qualified white borrowers. The Department's Civil Rights Division is working closely with Consumer Financial Protection Bureau on this issue.

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is because they are the so-called bottlenecks, or choke-points, in the fraud committed by so many merchants that victimize consumers and launder their illegal proceeds. For example, third-party payment processors are frequently the means by which fraudulent merchants are able to get paid. They provide the scammers with access to the national banking system and facilitate the movement of money from the victim of the fraud to the scam artist. And financial institutions through which these fraudulent proceeds flow, we have seen, are not always blind to the fraud. In fact, we have observed that some financial institutions actually have been complicit in these schemes, ignoring their BSA/AML obligations, and either know about -- or are willfully blind to -- the fraudulent proceeds flowing through their institutions.

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engaged in fraud.

Nevertheless, we have actually seen instances where the return rates on processors' accounts have exceeded 30%, 40%, 50%, and, even 85%. Just to put this in perspective, the industry average return rate for ACH transactions is less than 1.5%, and the industry average for all bank checks processed through the check clearing system is less than one-half of one percent. Return rates at the levels we have seen are more than red flags. They are ambulance sirens, screaming out for attention.

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Underscoring the importance of this case, in the press release announcing a parallel action with the Financial Crimes Enforcement Network, the Acting Chairman of

the FDIC, Martin Gruenberg, said, “Effective Bank Secrecy Act and anti-money laundering programs that are commensurate with the risk profile of the institution are vital to protecting our financial system.” He added that “[t]he significant penalty assessed in this case emphasizes the importance of having strong internal controls to assure compliance with anti-money laundering regulations and to detect and report potential money laundering or other illicit financial activities.”

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Of course, this conduct is completely unacceptable. And it is receiving the full attention of the Department of Justice. In fact, we have established within the Civil Division a dedicated team of attorneys and investigators to address similar unlawful conduct, and we will not hesitate to act when we see evidence of wrongdoing. Our message to banks is this: Maintaining robust BSA/AML policies and procedures is not merely optional or a polite suggestion. It is absolutely necessary, and required by law. Failure to do so can result in significant civil, or even criminal, penalties under the Bank Secrecy Act, FIRREA, and other statutes.

Consequently, banks should endeavor not only to know their customers, but also to know their customers' customers. Before they agree to do business with a third-party payment processor, banks should strive to learn more about the processors' merchant-clients, including the names of the principals, the location of the business, and the products being sold, among other things. If they are going to allow their institutions to be used by others as a gateway to access the bank accounts of our nation's consumers, banks need to know for whom they are processing payments. Because if they don't, they might be allowing some unscrupulous scam artist to be taking the last dollars of a

senior citizen who fell prey to another fraud scheme, and hundreds of millions of dollars of additional proceeds of fraud to flow through their institutions. And in that case, they might later find themselves in the unfortunate position of the First Bank of Delaware.

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It has been a pleasure to address this distinguished group today. I thank you, again, for the opportunity, and now look forward to addressing any questions you may have.

**To:** Bresnick, Michael J (ODAG) [REDACTED]@usdoj.gov]  
**From:** Sweet, Joel  
**Sent:** Mon 5/13/2013 10:09:26 PM  
**Subject:** Draft Memo req authority bank subs FINAL.docx  
Memo req authority bank subs FINAL.docx

May 13, 2013

TO: Stuart F. Delery  
Acting Assistant Attorney General  
Civil Division

THROUGH: Maame Ewusi-Mensah Frimpong  
Deputy Assistant Attorney General  
Civil Division

FROM: Michael S. Blume  
Director  
Consumer Protection Branch

SUBJECT: Payment Processor Investigation – Request for Issuance of Subpoenas to Banks

Time Frame

We request your approval by May 24, 2013. There are no external deadlines.

Recommendation

We seek authorization to issue [REDACTED] subpoenas under the Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 U.S.C. § 1833a(g)(1)(C) (“FIRREA”). The subpoenas would be limited in scope and directed to the entities described below.

Case Summary

In furtherance of Operation Choke Point, a multi-agency initiative combating mass-market consumer fraud through a focus on payment systems, in February 2013, we served subpoenas upon five banks and three third-party payment processors. Based upon information obtained in response to those subpoenas and from other sources, we have opened investigations against several of these entities.

As described below, our investigation to date and coordination with other federal agencies has revealed other banks engaged in conduct worthy of investigation. We have methodically identified additional banks that we suspect are processing payments on behalf of fraudsters, or that have been identified by payment processors as prospects for

originating such transactions. Our objective is to further identify gateways used by scammers to gain access to the national payment systems. Where appropriate and resources permit, we will open investigations into banks that knowingly permit their infrastructure to be used by fraudsters (or that remain willfully blind to that conduct), and possibly processors and fraudulent merchants.

### Discussion

Fraudulent merchants and predatory Internet payday lenders access consumers' bank accounts through relationships with third-party payment processors and banks. Upon instruction from a fraudulent merchant or payday lender, a third-party processor instructs a bank to access the national payments systems (automatic clearing house ("ACH") and check transactions) to debit money from the bank accounts of consumer victims. In some cases, the bank is aware of (or has remained intentionally blind to) the fact that purported consumer authorizations for debit transactions were obtained through fraud. In other cases, banks may have been misled by the third-party processor and/or the merchant as to the true nature of the activity, or the validity of the consumer authorization.

Using a variety of sources, we have identified [REDACTED] banks that originated debit transactions against consumers' accounts on behalf of fraudulent merchants, or engaged in discussions with suspected scammers about such activity. Some of the banks also processed debit transactions on behalf of Internet payday lenders who collect potentially unlawful debts in violation of state and possibly federal laws and regulations.

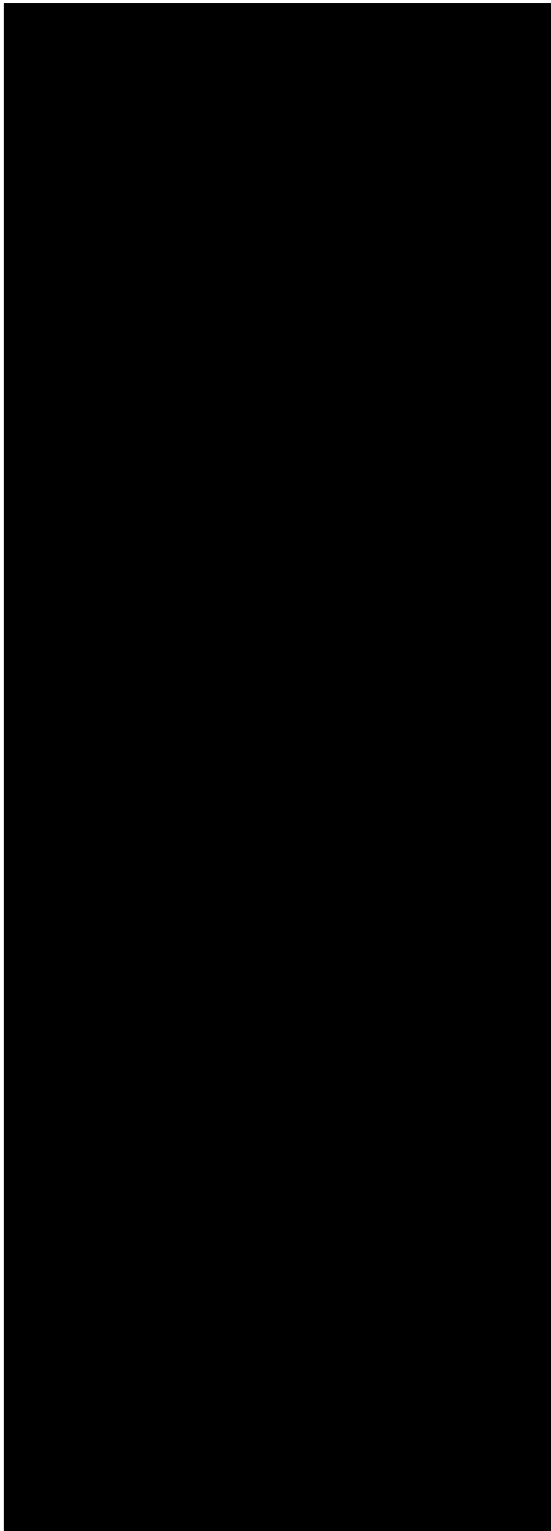
We have carefully tailored the subpoenas so that responses will identify third-party processors and fraudulent merchants that harm consumers. We also seek evidence of red flags that indicate that a bank had actual or constructive knowledge of consumer fraud. We have deliberately omitted broad requests -- including requests for "all documents" and for large amounts of data -- that would make compliance burdensome and expensive for banks, and that would require substantial resources for our team to review. After evaluating the responses to the subpoenas, if warranted, we may request authority to serve additional subpoenas to particular banks.

Following are the banks from which we seek documents. The banks are organized by the source from which we obtained information justifying the service of an investigatory subpoena.

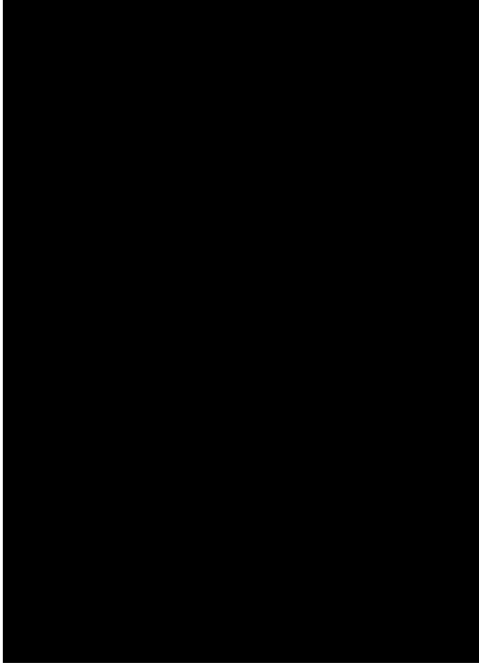
### **Federal Trade Commission**

The Federal Trade Commission investigates and pursues civil injunctive actions against entities that defraud, deceive, and/or mislead consumers. The FTC's attorneys and investigators, as part of a regular practice, identify payment processors and banks associated with fraudulent schemes. The FTC has provided us with emails in which processors and/or merchants discuss banks that are providing access to the payment

system, and also prospective banks that may be willing to originate debit transactions against consumers' accounts to further their schemes. Banks identified in the FTC documents include:

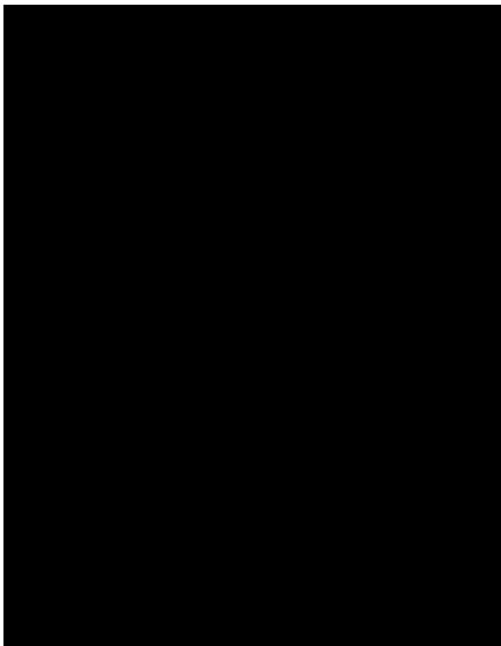


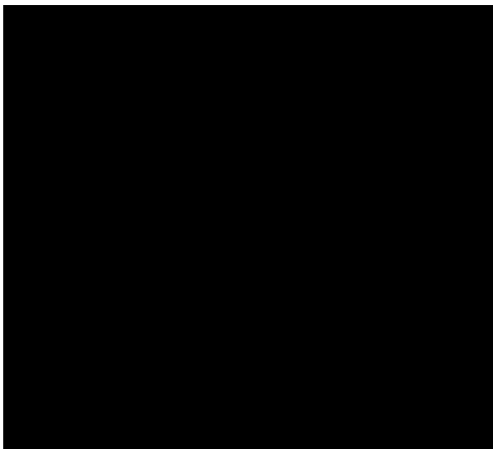




**Federal Reserve Bank -- Atlanta**

Pursuant to a FIRREA subpoena that the USAO-EDPA served last year upon the Federal Reserve Bank – Atlanta, we have received regularly-created “Dashboard Reports” addressing high return rates among banks originating ACH transactions. High return rates are an important indication of potential fraud against consumers. The Dashboard Reports are created specifically to identify and monitor banks with high return rates. Dashboard Reports for the period January through June 2012 identify the following banks with outlier high return rates:





We intend to serve each subpoena upon the respective bank's CEO with a transmittal letter stating that the subpoena has been issued in connection with an investigation of consumer fraud. To assist the bank and its counsel to understand the nature of our investigation, we will include a copy of a recent FinCEN Advisory and bank regulator guidance concerning risks associated with third-party payment processors.

Conclusion

We request that you sign the attached FIRREA subpoenas.

(Goldberg/Sweet, [redacted])

**To:** Martinez, Brian (OAAG [REDACTED]@usdoj.gov]; Taylor, Elizabeth G. (OAAG [REDACTED]@jmd.usdoj.gov]; Chilakamarri, Varudhini (OASG) [REDACTED]@usdoj.gov]; Thompson, Karl (OAG [REDACTED]@usdoj.gov]; Jacobsohn, Robin (ODAG [REDACTED]@usdoj.gov]; Starks, Geoffrey (ODAG [REDACTED]@usdoj.gov]  
**Cc:** Olin, Jonathan F. (CIV [REDACTED]@civ.usdoj.gov]; Blume, Michael S. [REDACTED]@CIV.USDOJ.GOV]; Bresnick, Michael J (ODAG [REDACTED]@usdoj.gov]  
**From:** Frimpong, Maame Ewusi-Mensah (CIV)  
**Sent:** Mon 6/10/2013 10:36:45 PM  
**Subject:** RE: FYI on NYT story to include CIV

Hi –

The story is online now, and is supposed to run in tomorrow's paper:  
<http://www.nytimes.com/2013/06/11/business/fraud-against-seniors-often-is-routed-through-banks.html?src=busln&r=0> Great quotes by Mike Blume and Mike Bresnick. Kudos to them and OPA for making this happen.

Regards,

Maame

**From:** Frimpong, Maame Ewusi-Mensah (CIV)  
**Sent:** Friday, June 07, 2013 2:19 PM  
**To:** Martinez, Brian (OAAG); Taylor, Elizabeth G. (OAAG); Chilakamarri, Varudhini (OASG); Thompson, Karl (OAG); Jacobsohn, Robin (ODAG); Starks, Geoffrey (ODAG)  
**Cc:** Olin, Jonathan F. (CIV)  
**Subject:** FYI on NYT story to include CIV

Hi –

You may have already heard about this from OPA, but just in case, we wanted to let you know that there will likely be a story in the NYT this weekend about third-party payment processors that we anticipate will favorably discuss the work that CIV is doing in this area. Mike Bresnick and Mike Blume did an interview with the NYT on this issue generally and our work. Apparently, it went very well, and we are hoping that the story will highlight the proactive approach we have taken on this issue. Let us know if you have any questions or need more

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information on the initiative. I include a bit of background and context below.

*What are Third-Party Payment Processors?*

Since very few of the fraudulent schemes we are looking at involve cash transactions, fraudulent merchants need access to victims' bank accounts in order to get money from them. And they are only able to take money from their victims' bank accounts if they have a relationship with a bank, and thus access to the nation's banking system. Banks are reluctant to establish direct relationships with such merchants due to significant legal, financial, and reputational risks. To overcome this obstacle, fraudulent merchants create indirect relationships with banks through third-party payment processors. In many cases, these processors are unlicensed, unregulated, and owned or controlled by the fraudulent merchants. By using processors as conduits to gain access to the banking system, fraudulent merchants can evade and frustrate statutes and regulations designed to require banks to know their clients, and to prevent their clients from using the banking system to further criminal activity.

*What is the Consumer Protection Branch Doing?*

The Consumer Protection Branch has increasingly been trying to identify the "choke points" in fraudulent schemes so as to make our enforcement efforts more effective since the number of fraudulent schemes and perpetrators of those schemes is so large. Third-party payment processors represent one such choke point. Our initiative focuses on banks and third-party payment processors and seeks to get both to comply with their "know your customer" obligations; the authorities we are using are civil and criminal (FIRREA, Bank Secrecy Act, wire fraud). In addition to our attorneys who are working on this, we also have an AUSA on detail, an individual from Treasury on detail, and two USPIS agents working on this.

Note that FINCEN circulated an advisory on this issue last year, and we participated in an interagency webinar with over 1000 financial institutions to help them understand what the law requires. Third-party payment processors is also the focus of one of the three subgroups of the FFETF Consumer Protection Working Group, where we are working with a number of other agencies.

Thanks!

Regards,

Maame

***Maame Ewusi-Mensah Frimpong***

*Deputy Assistant Attorney General, Consumer Protection Branch*

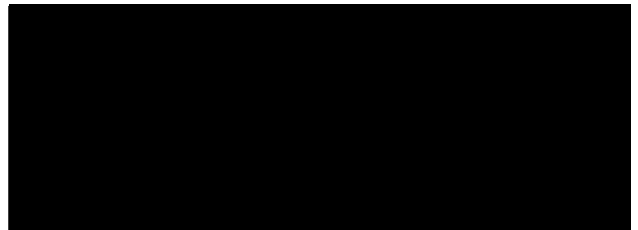
*Civil Division*

*United States Department of Justice*

950 Pennsylvania Avenue, NW

Room No. 3129

Washington, DC 20530



HOGR-3PPP000853

JOHN L. MICA, FLORIDA  
MICHAEL R. TURNER, OHIO  
JOHN J. DUNCAN, JR., TENNESSEE  
PATRICK T. McHENRY, NORTH CAROLINA  
JIM JORDAN, OHIO  
JASON CHAFFETZ, UTAH  
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# Congress of the United States

## House of Representatives

### COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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LAWRENCE J. BRADY  
STAFF DIRECTOR

January 8, 2014

The Honorable Eric H. Holder Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Mr. Attorney General:

The Committee on Oversight and Government Reform is conducting oversight of the Department of Justice's enforcement of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).<sup>1</sup> The Committee is specifically concerned that the Department may be using its civil investigative power under § 951(d) to inappropriately target two lawful financial services: third-party payment processing and online lending. We write to request your assistance with this oversight.

### **Background**

Third-party payment processors are commercial bank customers that provide payment-processing services to merchants and other business entities.<sup>2</sup> These merchant transactions primarily include credit card payments, but also cover automated clearing house (ACH) transactions, remotely created checks (RCC), and debit and prepaid card transactions.<sup>3</sup> The overwhelming majority of merchants who rely on payment processing are honest and legitimate small businesses, including many online merchants for whom payment processing is the sole means of accepting payment for goods and services.

Online lenders specialize in offering consumers small, short-term loans online. According to the most recent data available from the Federal Deposit Insurance Corporation, 28.3% of households in the United States are deemed unbanked or underbanked.<sup>4</sup> For these consumers who have been shut out of the traditional banking system, short-term online loans are often their only realistic way to make ends meet. While online lending, like all financial services,

<sup>1</sup> Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 183 (1989).

<sup>2</sup> Federal Financial Institutions Examination Council, Bank Secrecy Act Anti-Money Laundering Examination Manual, available at [http://www.ffiec.gov/bsa\\_aml\\_infobase/pages\\_manual/OLM\\_063.htm](http://www.ffiec.gov/bsa_aml_infobase/pages_manual/OLM_063.htm).

<sup>3</sup> *Id.*

<sup>4</sup> FEDERAL DEPOSIT INSURANCE CORPORATION, 2011 FDIC NATIONAL SURVEY OF UNBANKED AND UNDERBANKED 3, (Sept. 2012).

can be susceptible to fraud, the overwhelming majority of lenders fully comply with all applicable statutes, regulations, and industry-recognized best practices.<sup>5</sup>

Over the past several months, the Department has initiated a wide-ranging investigation of banks and payment processors that service online lenders, known informally as “Operation Choke Point.”<sup>6</sup> To date, the Department has issued over 50 subpoenas to banks and payment processors.<sup>7</sup> The ostensible goal of the investigation is to combat mass-market consumer fraud by foreclosing fraudsters’ access to payment systems.<sup>8</sup> However, there is evidence that the true goal of Operation Choke Point is to target online lenders and the payment processors who serve them. The Committee is concerned that both the goal and mechanisms of Operation Choke Point may constitute a serious mismanagement and abuse of the Department’s FIRREA authority.

### **Potential Misuse of FIRREA Authority**

The mere threat of a federal investigation under FIRREA can incur enormous reputational and legal costs for targeted institutions. Such investigations should be initiated and conducted with an acute awareness of these impacts, and motivated by a legitimate suspicion of actual fraud. Unfortunately, it appears the Department is using its FIRREA authority to create an indiscriminate dragnet that is wholly decoupled from any concrete suspicion of fraud. On September 17, 2013, the lead trial attorney in Operation Choke Point gave a presentation on the Department’s actions to the Federal Financial Institutions Examination Council (FFIEC).<sup>9</sup> One slide from this presentation detailed the core motivation for the investigations. According to the slide:

- Mass-market scammers need access to payments systems (RCC’s, ACH, CC) to take consumers’ money. Without bank access there are no unauthorized withdrawals.
- Banks are stationary (no “whack-a-mole”), regulated, and are concerned about reputational risk.
- Banks are already required to have systems in place to prevent criminals from accessing the banking system.
- **Cutting off the scammers’ access to the payment systems is relatively efficient and fast, and protects consumers prospectively as we investigate.** [emphasis added]<sup>10</sup>

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<sup>5</sup> See, e.g., Online Lenders Alliance, Best Practices, *available at* [http://c.yimcdn.com/sites/www.onlinelendersalliance.org/resource/resmgr/best\\_practices\\_2013.pdf](http://c.yimcdn.com/sites/www.onlinelendersalliance.org/resource/resmgr/best_practices_2013.pdf).

<sup>6</sup> Presentation by a Trial Attorney in the Consumer Protection Branch, U.S. Dep’t of Justice, to the Federal Financial Institutions Examination Council, Sept. 17, 2013 (slides on file with Committee staff).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* See also Letter from Peter J. Kadzik, Principal Deputy Assistant Attorney General, Office of Legis. Affairs, U.S. Dep’t of Justice, to Rep. Blaine Luetkemeyer (Sept. 12, 2013) (stating “[t]he Department seeks to combat fraud and other unlawful practices in the payment system, and our efforts are focused on all those engaged in illegal activity.”); Congressional Staff Briefing with Maame Ewusi-Mensah Frimpong, Deputy Assistant Attorney General, Civil Div., U.S. Dep’t of Justice, on Sept. 20, 2013.

<sup>9</sup> See *supra* note 7.

<sup>10</sup> *Id.*

This admission is stunning in its candor. It appears the Department has indiscriminately targeted an access point to the financial system that countless legitimate merchants rely upon simply because it is “faster” than targeting the actual perpetrators of fraud. While the Justice Department is correct that “without bank access there are no unauthorized withdrawals,” without bank access there are also no *authorized* withdrawals. Furthermore, the Department is knowingly using the threat of reputational damage to force the targeted firm to comply with its demands. Finally, the presentation appears to concede that the Department’s investigation is an exercise in prior restraint, rather than a legitimate investigation into known fraud.

The extraordinary breadth of the Department’s dragnet prompts concern that the true goal of Operation Choke Point is not to cut off actual fraudsters’ access to the financial system, but rather to eliminate legal financial services to which the Department objects. According to Committee sources, line attorneys in the Department’s Civil Division are using the threat of a federal investigation to demand that banks immediately sever *all* relationships with third party payment processors and online lenders. If Department attorneys are making these demands, the Department is needlessly punishing good actors with the bad, and threatening legitimate merchants’ access to the payment transfer system.

Documents reviewed by the Committee, including one subpoena served on a targeted bank, support this conclusion. The subpoena, signed by Acting Assistant Attorney General Stuart F. Delery, requires the production of an enormous universe of documents related to every conceivable aspect of the bank’s relationship with payment processors and merchant-clients.<sup>11</sup> Furthermore, the subpoena demonstrates that the Department is relying on a wildly over-inclusive criterion to trigger FIRREA investigations. Specifically, the subpoena requests virtually all documents related to payment processors and/or merchant-clients that experienced a transaction return rate of *three percent* or greater in any one month period.<sup>12</sup> Such a criterion is wholly inappropriate to trigger a federal investigation. First, the subpoena defines a “return” as any attempted debit transaction against a consumer’s bank account that has been returned “*for any reason.*”<sup>13</sup> Under this definition, every chargeback – including those for non-sufficient funds, account closed, bad routing number, etc. – is considered evidence of a fraudulent transaction. In fact, only debits returned as *unauthorized* constitute evidence of a fraudulent transaction. Second, the “three percent” standard is far too low to serve as a reasonable indication of potential fraud. NACHA, the cooperative organization that administers and governs the ACH payment transfer network, recently proposed an amendment to its operating rules indicating that a return rate of *fifteen percent* is necessary to trigger suspicion of fraudulent activity.<sup>14</sup>

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<sup>11</sup> Subpoena Duces Tecum for the Production of Documents, signed by the Acting Assistant Attorney General of the Civil Division (on file with Committee staff).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> NACHA – The Electronic Payments Association, ACH Network Risk and Enforcement Topics, Proposed Modifications to the Rules, Nov. 11, 2013, *available at* <https://www.nacha.org/page/request-commentrisk#overlay-context=page/request-commentquality>.



### Targeting of the Online Lending Industry

The Department has consistently stated that its goal is to combat mass-market consumer fraud.<sup>15</sup> However, there is ample evidence that the true target of Operation Choke Point is the online lending industry, not actual fraudsters. Initial press reports of the Department's investigations support such an understanding. The *Wall Street Journal*, citing an interview with a Department official, reported that the Department considers online payday lending to be a "questionable financial venture."<sup>16</sup> This report explicitly concluded that Department prosecutors were "target[ing] firms that process payments for online lenders," among others.<sup>17</sup>

This conclusion accords with public statements by the Department prosecutor leading the investigations. In the September 17, 2013 presentation to the FFIEC, the lead prosecutor characterized the investigation's impact on "Internet Payday lending" as "*collateral benefits*" to Operation Choke Point.<sup>18</sup> Given that the vast majority of online lenders are legitimate and legally compliant, such a statement is irreconcilable with the Department's stated claim that the sole goal is to combat fraud.

The strongest evidence for the true motivation of Operation Choke Point can be found in the Department's own representations to the targeted banks. One such bank, the National Bank of California, made the following statement in a press release:

The Bank must also have resolved certain pending inquiries by the US Department of Justice (DOJ) concerning its ACH services to third party processors who may have processed payments for certain companies making short term loans commonly called "payday lenders." **These inquiries are part of an industry-wide DOJ investigation of ACH services provided to payday lenders.**<sup>19</sup> [emphasis added]

The only reasonable inference is that the Department informed the bank that the primary target of the investigations is the online lending industry. Such an inference is supported by additional anecdotal reports that Department prosecutors are pressuring subpoenaed banks to immediately sever their relationships with all online lenders, regardless of any suspicion of fraud. The use of § 951(d) subpoena power to eliminate a legitimate and legal financial service, rather than to combat actual fraud, is a significant abuse of the Department's FIRREA authority.

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<sup>15</sup> See Letter from Peter J. Kadzik, Principal Deputy Assistant Attorney General, Office of Legis. Affairs, U.S. Dep't of Justice, to Rep. Blaine Luetkemeyer (Sept. 12, 2013) (stating "[t]he Department seeks to combat fraud and other unlawful practices in the payment system, and our efforts are focused on all those engaged in illegal activity."). See also Congressional Staff Briefing with Maame Ewusi-Mensah Frimpong, Deputy Assistant Attorney General, Civil Div., U.S. Dep't of Justice.

<sup>16</sup> Alan Zibel and Brent Kendall, *Probe Turns Up Heat on Banks: Prosecutors Target Firms That Process Payments for Online Payday Lenders, Others*, WALL ST. J., Aug. 7, 2013.

<sup>17</sup> *Id.*

<sup>18</sup> Presentation by a Trial Attorney in the Consumer Protection Branch, U.S. Dep't of Justice, to the Federal Financial Institutions Examination Council, Sept. 17, 2013 (slides on file with Committee staff).

<sup>19</sup> Press Release, National Bank of California, NCAL Bancorp Announces the Signing of a Definitive Agreement for \$25 Million Recapitalization (Sept. 16, 2013).

To enable the Committee to better understand the Department's general policies with respect to FIRREA enforcement, we request that you provide the following information:

1. All documents and communications since January 1, 2011, referring or relating to "Operation Choke Point."
2. All documents and communications since January 1, 2011, referring or relating to the Department's FIRREA enforcement authority with respect to the online lending industry.
3. All documents and communications since January 1, 2011, between employees of the Department and employees of any other agency, referring or relating to the online lending industry.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

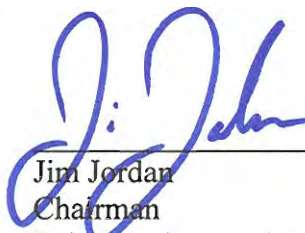
Please provide all responsive material as soon as possible, but no later than 5:00 p.m. on January 22, 2014. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers to receive all documents in electronic format.

If you have any questions about this request, please contact Brian Daner or David Brewer of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,



Darrell Issa  
Chairman



Jim Jordan  
Chairman  
Subcommittee on Economic Growth,  
Job Creation and Regulatory Affairs

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Matthew A. Cartwright, Ranking Minority Member  
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs



**Responding to Committee Document Requests**

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;  
  
BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,  
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,  
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

#### **Schedule Definitions**

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.



## U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

*Washington, D.C. 20530*

January 24, 2014

The Honorable Darrell E. Issa  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jim Jordan  
Chairman  
Subcommittee on Economic Growth,  
Job Creation and Regulatory Affairs  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

This responds to your January 8, 2014, letter to the Attorney General regarding the Department of Justice's financial fraud enforcement efforts related to financial institutions and third party payment processors that have facilitated or participated in consumer fraud.

The Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA"), which the Department has responsibility for enforcing, provides for civil penalties in a variety of situations in which frauds are perpetrated affecting federally insured financial institutions. Those situations include instances where a financial institution knowingly participates in a fraud or processes transactions, deliberately ignoring evidence that they are fraudulent, in violation of the federal mail fraud and wire fraud statutes. Evidence relevant to such charges could include intentionally disregarding obligations under the Bank Secrecy Act, the USA PATRIOT Act, or other applicable laws. The FIRREA investigations described in your letter relate to the basic principle that a financial institution should not profit from its decision to process fraudulent transactions in violation of federal law, often at great cost to the Americans who are victims of the fraud. The goal of these investigations of financial institutions and third-party payment processors is to identify whether such entities violated their obligations under the anti-fraud laws described above. Consistent with this aim, relevant conduct may include, for instance, causing withdrawals from consumer bank accounts despite knowledge that the account holders had not consented to the withdrawals or continuing to process financial transactions for merchants that it knows do not perform any lawful business.



The Honorable Darrell E. Issa  
The Honorable Jim Jordan  
Page Two

We want to clarify that the Department does not target businesses operating within the bounds of the law. Assistant Attorney General Delery underscored this point in the enclosed letter to the American Bankers Association and the Electronic Transaction Association:

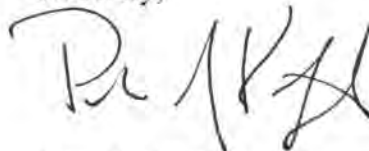
The Department has no interest in pursuing or discouraging lawful conduct. Our policy is to take the steps necessary to prevent financial institutions from knowingly assisting fraudulent merchants that harm consumers or processing transactions while deliberately ignoring evidence that they are fraudulent.

We agree, of course, that it is important for the Department's public statements to be both consistent with this policy and sufficiently clear to avoid any confusion on this point.

Our purpose is to investigate violations of federal law, especially those involving fraudulent conduct that threatens to harm the American public.<sup>1</sup> The Federal Trade Commission found that, in 2011, 25.6 million people—eleven percent of all adults in the United States—paid for fraudulent products and services. We want to protect the public from this mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law by facilitating fraudulent transactions.

We hope this information is helpful. If we could offer greater assistance by providing a briefing to your staff, we would be happy to do so. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Kadzik', with a stylized flourish at the end.

Peter J. Kadzik  
Principal Deputy Assistant Attorney General

cc: The Honorable Elijah E. Cummings  
Ranking Member

The Honorable Matthew A. Cartwright  
Ranking Member  
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs

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<sup>1</sup> Your letter notes that certain subpoenas have requested “documents related to payment processors and/or merchant-clients that experienced a transaction return rate of *three percent* or greater in any one month period” and states that “[s]uch a criterion is wholly inappropriate to trigger a federal investigation.” Letter at 3 (emphasis in the original). The subpoenas seek evidence that there has been a violation under FIRREA, as described above. Return rates are but one piece of evidence we consider to be relevant in our analysis. We agree that a three-percent return rate alone does not demonstrate fraud.





U. S. Department of Justice

Civil Division

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*Assistant Attorney General*

*Washington, D.C. 20530*

January 22, 2014

Mr. Jeff L. Plagge  
Chairman  
American Bankers Association  
1120 Connecticut Avenue, NW  
Washington, D.C. 20036

Mr. Jason Oxman  
Chief Executive Officer  
Electronic Transaction Association  
1101 16th Street, NW, #402  
Washington, D.C. 20036

Dear Messrs. Plagge and Oxman:

I am writing concerning an issue that may be of interest to your members, and specifically to clarify the Department of Justice's policy and approach regarding certain investigations into banks, payment processors, and other institutions that process payments for merchants engaged in fraudulent activities.

The Department of Justice is committed to protecting the American people from fraudulent practices in all industries—without exception. To the extent we have evidence that an entity is violating federal law by engaging in or facilitating fraudulent conduct, we will take appropriate measures to combat that conduct.

As you may be aware, the Department has engaged in various efforts to eliminate fraud in the payment system by holding financial services entities accountable where such entities (contrary to their responsibilities under federal law) engage in fraud or aid others who are engaging in fraud. The Department wishes to make clear that the aim of these efforts is to combat fraud. The Department has no interest in pursuing or discouraging lawful conduct. Our policy is to take the steps necessary to prevent financial institutions from knowingly assisting fraudulent merchants that harm consumers or processing transactions while deliberately ignoring evidence that they are fraudulent. It may be relevant to our inquiry that a financial institution is intentionally disregarding other obligations under federal law.

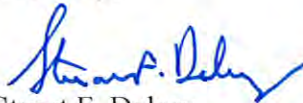
As the FDIC has recently clarified, "Facilitating payment processing for merchant customers engaged in higher risk activities can pose risks to financial institutions and requires due diligence and monitoring, as detailed in prior FDIC and interagency guidance and other information. Financial institutions that properly manage these relationships and risks are neither prohibited nor discouraged from providing payment processing services to customers operating

in compliance with applicable federal and state law.” FIL – 43-2013. Moreover, as the FDIC stated, “Those that are operating with the appropriate systems and controls will not be criticized for providing payment processing services to businesses operating in compliance with applicable law.” *Id.*

We share these views. The aim of our investigations is to identify and hold accountable financial institutions that are engaged in or facilitate fraud. Our policy is not to prohibit or discourage financial institutions from providing payment processing services to customers operating in compliance with applicable federal and state law, and we are committed to tailoring our investigative efforts accordingly. Finally, we will continue to review our efforts to minimize any impact and collateral consequences on institutions we are not investigating.

We look forward to further engagement with you and your colleagues concerning consumer protection issues of mutual concern.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stuart F. Delery", with a stylized flourish at the end.

Stuart F. Delery  
Assistant Attorney General

**Congress of the United States**  
**Washington, DC 20515**

August 22, 2013

The Honorable Eric Holder  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

The Honorable Martin J. Gruenberg  
Chairman  
Federal Deposit Insurance Commission  
550 17<sup>th</sup> Street, NW  
Washington, D.C. 20429

Dear Attorney General Holder and Chairman Gruenberg:

It has come to our attention that the Department of Justice (DOJ) and Federal Deposit Insurance Corporation (FDIC) are leading a joint agency effort that, according to a DOJ official, is intended to “change the structures within the financial system...choking [online short-term lenders] off from the very air they need to survive.”<sup>1</sup> Your efforts to stop banks from processing these lawful transactions would destroy many legitimate, legally compliant companies and small businesses, and adversely impact tens of millions of low-income American families who depend on short-term credit provided by online lenders because they do not qualify for traditional loans or credit cards.

More than one in four American households conducts some or all of their financial transactions outside the mainstream banking system, according to the results of the FDIC's 2011 National Survey of Unbanked and Underbanked Households. If the government cuts off underserved consumers' credit options, it will force many Americans who live paycheck-to-paycheck to turn to unregulated and unsafe alternatives that are much more expensive than currently available short-term credit products.

We are especially troubled by reports that the DOJ and FDIC are intimidating some community banks and third party payment processors with threats of heightened regulatory scrutiny unless they cease doing business with online lenders. As a result, many banks and payment processors are terminating relationships with many of their long-term customers who provide underserved consumers with short-term credit options.

We understand that, as with any industry, there are bad actors in online and nondepository lending. We support your efforts to protect consumers with disclosure rules that protect consumers by giving them full information. We also believe in strong enforcement of existing laws designed to prevent abusive lending. However, it is highly inappropriate to pre-judge an entire industry, or significant portions of it. Your current actions would eliminate the basic processing services that legitimate lenders rely upon to serve millions of Americans. A much more targeted approach is required.

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<sup>1</sup> Alan Zibel and Brent Kendall, *Prosecutors Target Firms that Process Payments for Online Payday Lenders, Others*, Wall Street Journal, Aug. 8, 2013, at A1.



Regulators must be especially careful not to impose undue restrictions on online credit services because many underserved consumers find it more convenient to go online than to drive to a storefront lender, and they enjoy the convenience and privacy that only the Internet can provide. These competitive advantages have made internet lending a nationwide and global business.

Underserved consumers need more access to innovative and better-suited financial products and services, not less. Federal banking regulators such as the FDIC should focus on finding creative, realistic ways to help low-income families make ends meet, instead of cutting off access to legal online lenders.

Your actions to “choke off” short-term lenders by changing the structure of the financial system are outside your congressional mandate. With the enactment of the Dodd-Frank Act, Congress acknowledged the need for short-term credit products and did not try to limit online lender’s or storefront operators’ ability to offer such products.

Dodd-Frank also included a specific provision designed to prohibit the Consumer Financial Protection Bureau (CFPB) from imposing rate limitations on short-term loans. Neither Dodd-Frank, nor any other legislation passed by Congress, has given the DOJ, FDIC or any other federal agency the authority to “take away the very air” that online lenders “need to survive.”

Given the threat that the overreaching actions taken by your agencies pose to low-income American families who depend on short-term, online credit to pay their bills and feed their families, we ask that you promptly suspend any activities that could deny any lawfully operating lenders access to the payments system. Additionally, we strongly encourage your agencies to immediately stop any actions designed to pressure banks and payment processors to terminate business relationships with lawful lenders.

We take the actions of your agencies very seriously and look forward to a detailed and prompt response. Additionally, we request that your agencies contact Chris Brown of Rep. Luetkemeyer’s staff ([ChrisBrown@mail.house.gov](mailto:ChrisBrown@mail.house.gov) or 202.225.2956) or Lara Driscoe of Rep. Yoder’s staff ([LaraDriscoe@mail.house.gov](mailto:LaraDriscoe@mail.house.gov) or 202.225.2865) to arrange a staff briefing on this matter.

Thank you in advance for your consideration and timely response.

Sincerely,



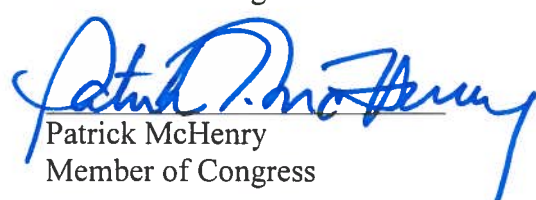
Blaine Luetkemeyer  
Member of Congress



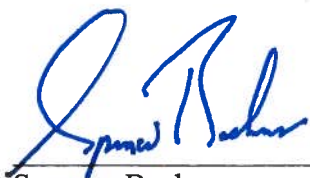
Pete Sessions  
Member of Congress



Kevin Yoder  
Member of Congress



Patrick McHenry  
Member of Congress



Spencer Bachus  
Member of Congress



Steve Stivers  
Member of Congress



Scott Garrett  
Member of Congress



Tom Cotton  
Member of Congress



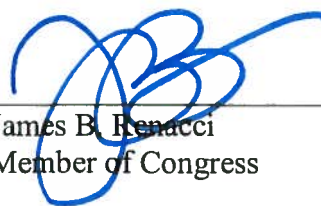
David Schweikert  
Member of Congress



Lynn Westmoreland  
Member of Congress



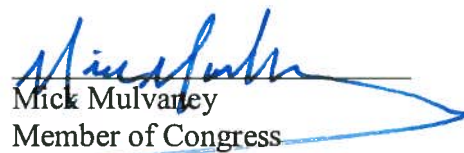
Michael Grimm  
Member of Congress



James B. Renacci  
Member of Congress



Kenny Marchant  
Member of Congress



Mick Mulvaney  
Member of Congress



Ann Wagner  
Member of Congress



Andy Barr  
Member of Congress



Tom Graves  
Member of Congress



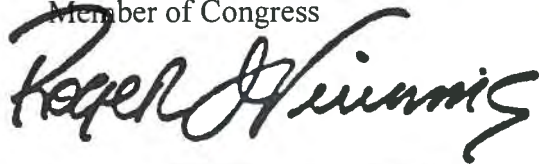
Trey Radel  
Member of Congress



Pete Olson  
Member of Congress



Stephen Fincher  
Member of Congress



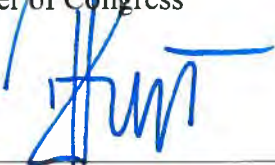
Roger Williams  
Member of Congress



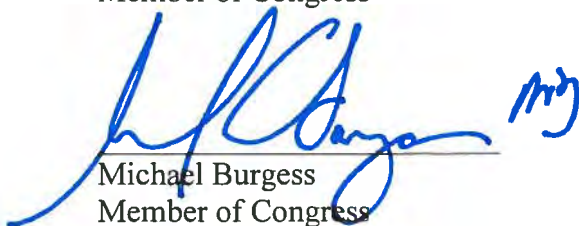
Chuck Fleischmann  
Member of Congress



Stevan Pearce  
Member of Congress



Robert Hurt  
Member of Congress



Michael Burgess  
Member of Congress



Walter B. Jones  
Member of Congress



Dennis A. Ross  
Member of Congress



Steve Womack  
Member of Congress



Tim Griffin  
Member of Congress



Steve Chabot  
Member of Congress



Robert Aderholt  
Member of Congress



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

**SEP 12 2013**

The Honorable Blaine Luetkemeyer  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Luetkemeyer:

This responds to your letter to the Attorney General dated August 22, 2013, regarding online short-term lenders. We are sending identical responses to the other signatories of your letter.

The Department of Justice (the Department) shares your concerns – and those of many state attorneys general and consumer protection organizations – about bad actors in the online lending industry. As Department officials have stated publicly in several contexts, the Department will vigorously investigate those engaged in fraudulent or otherwise unlawful transactions, and bad actors who use our financial system to further their schemes. Unfortunately, American consumers are plagued by all manners of fraud, including telemarketing fraud, healthcare fraud, mortgage rescue schemes, government grant scams, vacation scams, credit repair scams, and deceptive on-line lending scams, to name a few. These schemes often are targeted at elderly and middle-class working people.

To combat this illegal activity, the Department is investigating the role played by banks and other intermediaries that stand between consumers and the offenders who seek to take their money. The Department's efforts in this regard are not targeted at any one of these scams; rather, we are targeting fraud and unlawful practices in all of them. We are particularly concerned about instances in which banks and others know or turn a blind eye to fraud against consumers, and the proceeds of that fraud passing through their accounts. Our efforts are targeted at ending unlawful practices against consumers, which are well within the Department's mandate.

The Department appreciates your letter, and we share your goal of protecting consumers. However, we wish to clarify an apparent misunderstanding regarding our efforts. Several times in your letter you refer to a quotation reported in the Wall Street Journal. The Wall Street Journal accurately reported the following quote: “‘We are changing the structures within the financial system that allow *all kinds of fraudulent merchants* to operate,’ a Justice Department official said, with the intent of ‘choking them off from the very air they need to survive.’” (emphasis added).<sup>1</sup> In quoting the article, your letter incorrectly substitutes “online short term

<sup>1</sup> Alan Zibel and Brent Kendall, “Probe Turns Up Heat on Banks,” *Wall Street Journal*, August 7, 2013.

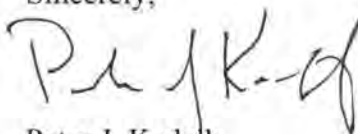


lenders” for the correct targets of our initiative – “all kinds of fraudulent merchants.” At no point did the Department’s quote in the Wall Street Journal mention online lenders. The Department seeks to combat fraud and other unlawful practices in the payment system, and our efforts are focused on all those engaged in illegal activity. We appreciate the opportunity to clarify these important points.

While we will not be able to discuss the specifics of any particular investigation, we look forward to providing your staff with a briefing of our efforts. We will contact your staff in order to schedule a briefing.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this, or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter J. Kadzik". The signature is fluid and cursive, with the first name "Peter" and last name "Kadzik" being clearly distinguishable.

Peter J. Kadzik

Principal Deputy Assistant Attorney General





FINANCIAL SERVICE CENTERS OF AMERICA, INC.  
A NATIONAL TRADE ASSOCIATION

**Statement of**

**FINANCIAL SERVICE CENTERS OF AMERICA**

**To the**

**U. S. House of Representatives**

**Committee on Financial Services**

**Regarding**

**The Impact of Recent Regulator Supervisory and Enforcement**

**Actions on Consumer Financial Services**

**Washington, D.C.**

**April 8, 2014**

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[www.fisca.org](http://www.fisca.org)

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## **Introduction**

Financial Service Centers of America (FiSCA) is pleased to submit this statement to the U.S. House of Representatives Committee on Financial Services (Committee) in connection with the April 8, 2014 hearing to examine the impact of recent regulator supervisory and enforcement actions on consumer financial services. We submit to the Committee that recent supervisory and enforcement actions by the federal bank regulatory agencies, apparently in concert with the Department of Justice, have directly led to an alarming number of banks indiscriminately terminating their relationships with FiSCA member companies. We further submit that these determinations to deny banking services to our members are not being made based upon legitimate, individualized, and appropriate assessments of risk, but are being made based solely on politicized regulatory pressure and informal intimidation related to the products and services being offered by legal, licensed and regulated businesses.

Every business needs a bank account to operate. FiSCA members are no different. Similarly, millions of consumers across the nation rely on FiSCA members for their financial services needs. If these account terminations continue unchecked, bank discontinuance will destroy an entire industry, threatening the delivery of basic financial services in communities across the country and driving otherwise legitimate consumer financial transactions out of the regulated market and into untraceable or underground channels. Contrary to long-established U.S. security objectives, these bank discontinuances will make consumers more vulnerable by forcing them to turn to illegal and unscrupulous predatory providers.

The question posed by the Committee for this hearing is whether bank regulators should be able to dictate which financial products and services can be offered to consumers, not by regulating those products and services directly, but by pressuring their member banks to cut off

access to the banking system by the licensed and regulated businesses that offer them. We submit that the answer is unequivocally no; financial products and services must be appropriately overseen according to statutory authority granted to regulators by Congress. Any attempts by regulators to deny licensed and regulated businesses access to the banking system must be viewed as extra-legal activities, outside the scope of their authority. The actions of these regulators are fundamentally wrong, set a most dangerous precedent regardless of political affiliation, are *ultra vires*, a denial of due process, and ultimately, will most negatively impact precisely those consumers Congress wants to protect.

Despite FDIC and Department of Justice assertions to the contrary, there is ongoing and compounding harm to licensed businesses and, we submit, to insured depository institutions. This regulatory abuse poses an imminent threat to consumers who depend on these services. The only way to halt the impending irreparable harm to our industry and to our customers is for the banking regulators to effect an immediate moratorium on bank discontinuance. During a moratorium, Congress can engage in considered oversight of recent regulatory efforts and their impact on licensed businesses, banks, and consumers. Other measures should be enacted to incent banks to enter, or re-enter this market, and to protect those that do. Finally, federal regulators should work with those non-banks and banks that follow the rules, and take direct, credible action to root out law breakers.

### **Financial Service Centers of America**

FiSCA is a national trade association representing over 5,000 neighborhood financial service center providers throughout the United States. FiSCA's members, referred to as financial service centers (FSCs), provide a range of transactional financial services including check cashing, wire transfers, money orders, bill payment services, payday loans, and other small dollar

loans. Because they provide these services, FiSCA's members are designated as Money Services Businesses (MSBs) under the Bank Secrecy Act (BSA) and USA Patriot Act.

FiSCA's members, which include large chains with hundreds of locations as well as small "mom and pop" establishments throughout the U.S., employ tens of thousands of people and serve millions of customers, both banked and un-banked, who choose to use them because they fit their need for basic financial services, or because they have been denied access to traditional financial institutions. Every year, FSCs conduct more than 350 million transactions, providing more than \$106 billion in various products and services to 30 million customers. FSCs serve customers from all walks of life, including urban communities and the under-banked, groups that the federal banking agencies have stressed as being underserved by more traditional financial institutions. The financial service center industry is unquestionably the product of the powerful market forces which have shaped it. It has grown out of a need for convenient, accessible financial services.

The value of MSBs has been recognized time and time again. Former U.S. Treasury Secretary John Snow perhaps characterized it best in 2005, when he stated in an address to the Florida Bankers Association that MSBs "are key components of a healthy financial sector, and it is very important that they have access to banking services." MSBs are very much a part of the fabric of a healthy economy, yet recent bank regulator actions have placed the industry in peril, and its customers at risk.

The FSC industry is highly regulated and significant government oversight of the industry presently exists. MSBs must register with the Financial Crimes Enforcement Network (FinCEN) and are subject to periodic IRS examination. Most states license and regulate MSBs. Every state in which payday lending exists regulates that product. Licensing authorities typically

impose recordkeeping and reporting requirements, and subject licensees to periodic examination by state (often banking department) examiners.

A common misperception regarding MSBs is that they are "high risk" for money laundering and other financial crimes. Quite to the contrary, FSCs are clearly on the frontline in the war on money laundering and other financial crimes. MSBs are required under the USA Patriot Act to have compliance programs, including written anti-money laundering (AML) policies and procedures, compliance officers, training programs and independent compliance examinations. We are required to file Suspicious Activity Report (SARs), Currency Transaction Reports (CTRs), and maintain detailed records of transactions. FiSCA itself is the recognized leader in developing comprehensive BSA/AML compliance materials. Thus, the "high risk" label is a myth, utilized when convenient by banks seeking to exit, or regulators seeking to effect a termination of the business.

Finally, federal regulation of many of the products and services offered by MSBs existed well before the passage of the Dodd-Frank Act, through the Federal consumer financial laws. With the passage of Dodd-Frank, those products and services are within the jurisdiction of the Consumer Financial Protection Bureau (CFPB) and MSBs are subject to CFPB examination, supervision and enforcement.

### **The Insidious Problem of Bank Discontinuance**

In simple terms, bank discontinuance is the indiscriminate termination by banks of the accounts of all members of a particular industry; in this case, MSBs. Like any other business, MSBs cannot operate without access to commercial banking services, including depository accounts, lines of credit, and remote deposit services. Imagine trying to run a business without being able to make deposits or write checks! In fact, regulatory requirements in many states

dictate that MSBs maintain bank accounts and lines of credit. In those states, failure to maintain a bank account or the required line of credit can result in the revocation of a license, or other enforcement actions.

The FSC industry is sound, stable, responsible, licensed, regulated, and profitable. It does not operate underground. No FiSCA member was involved in creating the 2007 or 2008 financial meltdown, nor were FiSCA members' products implicated in the collapse. There is no question that banks are required to expend greater resources in maintaining MSB customer compliance and monitoring systems, however, it has to be assumed that MSBs pay for banking services commensurate with the costs and the profit requirements of the banks that service this market sector.

Over the last year, the industry has experienced an alarming increase in the number of banks making wide-scale terminations of MSB accounts. In most instances, the bank advises that its determination is based on issues caused by increased regulatory pressure from federal bank regulators, not activities in the market. (Attached as Exhibit "A" to our submission are copies of redacted letters from several of the banks that have recently terminated MSB accounts).

Most recently, the regulatory pressure was the result of Operation Choke Point, the effort by federal bank regulators and the Department of Justice to rid the payment system of illegal, on-line payday lenders. Let us be perfectly clear, FiSCA and its members support the stated goals of Operation Choke Point. Illegal operators threaten consumers and legitimate businesses alike. However, Operation Choke Point has become the impetus for termination of the bank accounts of legitimate, licensed businesses, and, as such, is no more legal than the unlicensed operators it seeks to curtail. Regardless of its stated goal, the impact on consumer financial services is

substantial, and it is threatening to curtail or constrain the delivery of licensed financial services to millions of Americans.

Many FiSCA members have provided us with examples of their recent experiences with banks, and these examples can only be described as alarming. (Copies of some of these communications are attached to our submission as Exhibit "B"). In the last week alone, FiSCA has heard from members in the following cities and towns, reporting their bank accounts have been terminated:

- Kawkalin, Michigan
- Tampa, Florida
- Panama City Beach, Florida
- Homestead, Florida
- Jacksonville, Florida
- Kapaa, Hawaii
- Dover, Delaware
- Toledo, Ohio
- North Olmstead, Ohio
- Dublin, Ohio
- Chicago, Illinois
- Irving, Texas
- New York, New York
- Waterbury, Connecticut

Since mid-2013, FiSCA members have had their bank accounts terminated by:

- Fifth Third Bank
- Bank of America
- Bank of Hawaii
- PNC Bank
- GTE Financial
- Wells Fargo Bank, N.A.
- Capital One Bank
- Hancock Bank/Whitney Bank
- US Bank
- Peoples Credit Union

Most of these terminations, which impact thousands of MSB locations, offering a full range of financial products and services, have occurred within the last six months. In many

cases, our members are reporting that banking relationships spanning more than 10 years have been terminated. They report lost business investment, loss of franchise opportunities, and loss of retirement savings. In some instances, the terminating bank will not release funds held as security for up to a year after the termination.

Just a few weeks ago, in mid-March, all of the FiSCA members banking with Fifth Third Bank received a letter advising them that their accounts were being terminated and that they had to be out of the bank by June 30. The letter advised that the decision was based on an "industry review" of the "payday lending industry", and that Fifth Third had determined that the services provided by those customers were "outside of our risk tolerance." (See copies of letters from Fifth Third Bank, attached as Exhibit "A"). We submit that the determination by Fifth Third to terminate these companies was indiscriminate, and not made with respect to product mix (in fact, payday lending was a small portion of the business of several of these companies), financial condition, IT systems, legal and compliance systems, management structure, or any other appropriate banking consideration. Rather, the decision was made due to regulator pressure based solely on the products being offered. This conclusion is not ours alone, but that of the Chairman of Fifth Third Bank. (See "DOJ's 'Operation Choke Point': An Attack on Market Economy," *American Banker*, March 21, 2014).

In many of the letters and communications that accompany termination decisions, banks point to their conclusion that MSBs present a high risk. Not only do they not define the risk, but their conclusions are unsupported by facts, and, we believe, simply a smokescreen for succumbing to regulator pressure related to the products these companies offer.

In a letter dated February 26, 2014 from Hancock Bank/Whitney Bank to a FiSCA member, the bank stated that its determination to close the account was based on the fact that it



was "unable to effectively manage your Account(s) on a level consistent with the heightened scrutiny required by our regulators for money services businesses due to the transactional characteristics of your business."

In an email from a bank in Texas to a FiSCA member, the Executive Vice President and Manager of the bank explained:

Based on your performance, there's NO WAY we SHOULDN'T be a credit provider.  
Our only issue is, and it has always been, the space in which you operate.  
It has never been the service you've provided or the way you operate.  
You've obviously done a brilliant job.  
It is the scrutiny that you, AND NOW WE, are under.

(emphasis in original). This admission is refreshingly candid, as most bankers, who find themselves pressured by regulators, are reluctant to identify and explain the real reasons for termination of MSB accounts, most often relying on the amorphous conclusions of "risk" or "business decision" as the basis. (*See* March 3, 2014 letter from Wells Fargo Bank, N.A., and December 6, 2013 letter from Bank of Hawaii, attached as Exhibit "A"). Let us again be clear, nothing has changed in our or their business except the pressure being brought by regulators trying to stop illegal, on-line businesses.

### **Capital One Bank Exits the New York Market**

In New York State, there are some 150 licensed check cashing companies which cash approximately 30 million checks a year, with a total value of \$12-\$13 billion. The New York industry, which serves almost one million customers, has existed in New York since 1944. Check cashers in New York charge a regulated fee of 1.98% to cash a check. New York's check cashing law also requires that licensees maintain bank accounts and minimum lines of credit to remain in compliance. Earlier this year, Capital One Bank (CapOne), which had been serving approximately 50% of the state's check cashers, announced that it will be terminating all of its

check casher/MSB accounts, beginning on June 1, 2014. As a result, some smaller check cashers, including some multi-generational family businesses, will not find new banks and they will be forced to sell their businesses at depressed prices, or simply close their doors.

With the exiting of CapOne, FiSCA members and the industry in New York at large, are now primarily served by two banks - both of which are from another state. If one or both of those banks should exit the business, the result may be disastrous. Almost a million people who rely on check cashing locations for their financial services, including check cashing, bill payment, rent payment, wire transfers, money orders, and other day to day financial services, will be left without a licensed location at which to conduct their transactions. The need for these transactions will not, however, go away. Customers will be forced instead to go to bars, liquor stores, and other unregulated locations where they will be charged exorbitant fees to conduct their financial transactions. None of those transactions will be within sight of regulatory authorities.

Other areas are experiencing similar trends. The treatment by banks across the country of hard-working business owners is outrageous. In one instance, after an MSB's accounts were closed, the bank closed the personal accounts of the owner's son, a 21 year old college student! In another instance, a FiSCA member closed its check cashing operation altogether since, after being terminated by two banks and being unable to obtain a banking relationship, including the legally required bank account and line of credit, it could not maintain a licensed location without risking a violation of state law. Certainly, the closing of those locations impacts the consumers in the area that relied on that business for their financial services. In some instances where MSBs had long-term relationships with local or regional banks, their accounts terminated when those banks were acquired by larger, national banks.

Finally, of the banks that continue to serve the industry, many are refusing new accounts, or are placing onerous and costly requirements on the accounts they currently maintain. All of these factors together have a potentially disastrous and unjust impact on the industry and, in turn, on its customers.

### **Neither FDIC Nor DOJ Has Halted the Terminations**

Operation Choke Point was initially disclosed in March of 2013. Following its disclosure, on September 17, 2014, FDIC Chairman Martin Gruenberg sent a letter to Congressman Blaine Luetkemeyer explaining that "the majority of transactions passing through financial institutions and payment processors represent legitimate transactions initiated by reputable merchants." The Chairman further stated that "[i]n order to address any confusion about our supervisory approach, we plan to issue a Financial Institution Letter for the banks we supervise to make it clear that the FDIC's focus is the proper management of the banks' relationship with their customers, particularly those engaged in higher risk activities, and not underlying activities that are permissible under state and federal law." (emphasis added).

On September 27, 2013, the FDIC issued a Financial Institution Letter (FIL-43-2013), entitled "FDIC Supervisory Approach to Payment Processing Relationships With Merchant Customers That Engage in Higher-Risk Activities" (Guidance). The stated purpose of the FDIC Guidance was to "clarify its policy and supervisory approach related to facilitating payment processing services, directly, or indirectly through a third party, for merchant customers engaged in higher-risk activities," namely on-line short-term lenders. The Guidance provided:

Facilitating payment processing for merchant customers engaged in higher-risk activities can pose risks to financial institutions and requires due diligence and monitoring, as detailed in prior FDIC and interagency guidance and other information. Financial institutions that properly manage these relationships and risks are neither prohibited nor discouraged from providing payment processing

services to customers operating in compliance with applicable federal and state law.

(emphasis added).

The Guidance has failed to halt the terminations. In fact, it appears to FiSCA that the pace of terminations has increased. As set forth above, since mid-2013, FiSCA members have had their accounts terminated by at least ten banks, and many of these terminations occurred after the FDIC Guidance. If anything, last year's FDIC Guidance has merely exacerbated the situation. We believe that many banks view the Guidance as adding to the regulatory pressure that accompanies serving MSBs, and it appears that some banks have terminated their MSBs as a result of the Guidance.

On January 22, 2014, the U.S. Department of Justice (DOJ) issued a letter to the American Bankers Association and the Electronic Transactions Association, purporting to clarify DOJ's policy and approach regarding certain investigations into banks, payment processors, and other institutions that process payments for merchants engaged in fraudulent activities. Relying in part on the FDIC Guidance, DOJ explained that, along with its commitment to "protecting the American people from fraudulent practices in all industries, without exception," DOJ has ". . . no interest in pursuing or discouraging lawful conduct." DOJ further stated that: "[o]ur policy is not to prohibit or discourage financial institutions from providing payment processing services to customers operating in compliance with applicable federal and state law, and we are committed to tailoring our investigative efforts accordingly. Finally, we will continue to review our efforts to minimize any impact and collateral consequences on institutions we are not investigating." The DOJ letter has also failed to halt, or slow, the pace of bank discontinuance. In fact, it is continuing at breakneck speed.

## **Conclusion**

Bank discontinuance of MSB accounts due to extra-legal regulatory pressure has reached epidemic proportions. Notwithstanding the FDIC and DOJ assertions that this activity is not ongoing, all indications are that it is, and an entire industry consisting of licensed businesses is being threatened with irreparable harm. The only way to halt the impending irreparable harm to our industry and to our customers is for the banking regulators to effect an immediate moratorium on bank discontinuance. During a moratorium, Congress can engage in considered oversight of recent regulatory efforts and their impact on licensed businesses, banks, and consumers. Furthermore, regulatory agencies should affirm for the Committee that no regulators have or are continuing to pressure banks to cease doing business with licensed and legally compliant businesses. Without a moratorium, MSBs will be forced out of business and the millions of Americans who rely on them for their financial services will be forced to untraceable or underground channels. There, consumers will be preyed upon by illegal, unscrupulous providers and long-established U.S. security objectives will be frustrated.

We appreciate the opportunity to submit this Statement with respect to this very important issue. We remain committed to continuing to work with the Committee and all interested parties in this regard.

## **EXHIBIT "A"**



All of **us** serving you

September 18, 2013

Via UPS Return Receipt

Re: Accounts

(the "Accounts")

Closure Effective: December 27, 2013

Dear

In accordance with your Deposit Account Terms and Conditions, please be advised that we have elected to close your Accounts with us.

The effective date of closure will not take place until the close of business approximately 90 (ninety) days from the date of this letter, on December 27, 2013. Accordingly, unless you choose to close the Accounts prior to that time, effective at the close of business on December 27, 2013, the Accounts will automatically close and be terminated. Once the Accounts are closed, you will no longer be able to conduct any banking business using the Accounts, including making deposits or initiating wire transfers. Any/all outstanding items presented against the Accounts will be returned as unpaid.

Effective immediately, any check, withdrawal, or other item presented for payment on the Accounts against insufficient collected or available funds will be returned. Therefore, deposits or transfers must be made prior to items being presented for payment. If deposit items consist of checks, please ensure that these deposits are made well in advance of any debit transaction to allow sufficient time for checks to be collected, per the assigned availability/float schedules related to the Accounts.

Unless the Company chooses to close the Accounts before the closure date, the Accounts will automatically close and be terminated on December 27, 2013. U.S. Bank will not extend this deadline. After the Accounts are closed, the Company will no longer be able to conduct banking business using the Accounts, including making deposits or initiating wire transfers. Any outstanding items, including checks, presented against the Accounts will be returned as unpaid.

The Company may close the Accounts before December 27, 2013. To do so, please call U.S. Bank Commercial Customer Service at 800-377-3053. The collected balance in the Accounts, after satisfying any outstanding service charges / costs or other outstanding obligations, if any, will be available as provided in your Deposit Accounts Agreement (the "DAA"). Alternatively, if we do not hear from you before December 27, 2013, U.S. Bank will automatically close the Accounts and mail any remaining balances to the Company in accordance with the DAA.

U.S. Bank reserves all rights and remedies available to it under the Deposit Account Terms, U.S. Bank Services Terms and Conditions or otherwise.

If you have any questions concerning this letter, please do not hesitate to contact me at 513-377-4472.

Sincerely,

Susan B. Whitman  
VP, Relationship Management  
Commercial Banking Deposit & Payment Solutions



December 6, 2013

Re: Account Number(s) ending in:

Dear Mr.:

Bank of Hawaii has made a business decision to close your above-referenced business deposit accounts. The primary reason for this account closure is the Bank's increasing business expenses involved with servicing this type of account for a customer that operates as a money service business and/or payday lender. We apologize for any inconvenience this may cause you.

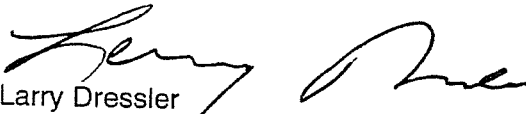
This letter will serve as notice of our intent to terminate the account(s) listed above (collectively, the "Checking Account") on March 6, 2014, pursuant to the Business Deposit Account Agreement governing the Account. We believe this will provide you with sufficient time to make other arrangements to meet your financial needs.

With respect to your Business CreditFlex Account No. (the "BCF Account"), please be advised that upon the termination of the Checking Account, payments due under your CreditLine under the BCF Account (the "CreditLine") and all fees and charges therefore will no longer be made by automatic deduction from the Checking Account. Instead, you will be receiving a monthly billing statement for your CreditLine, and you will be required to send in a monthly payment to Bank of Hawaii. You will continue to be able to borrow under the CreditLine by using Facility Checks, in accordance with the terms and conditions of the Business CreditFlex Agreement. Upon the termination of the Checking Account, you will no longer be able to borrow under the CreditLine by using Bankoh by Phone or e-Bankoh for Business.

As we previously discussed in September, the Bank is willing to discuss terming out a portion of the CreditLine under the BCF Account. A term sheet of proposed terms and conditions is enclosed, and we will be contacting you shortly about the term out.

If you have any questions, concerning this matter, please feel free to contact me at (808) 855-2743.

Sincerely,

  
Larry Dressler  
Business Banking Officer



Date  
January 14, 2014

Customer service  
1.800.626.2472

Account information  
[bankofamerica.com](http://bankofamerica.com)  
/small business

## Your Small Business account will be closed on March 14, 2014, and we want you to be able to plan ahead.

Account ending in:

We take a proactive approach to reviewing our customers' accounts. Most recently, we reviewed the nature of your business in light of current regulatory trends affecting your industry. After careful consideration we've decided to close your existing Small Business checking account listed to the right on March 14, 2014. We are giving you time to prepare. If you prefer, you can close your account prior to this date.

Your Deposit Agreement and disclosures, provided to you when your account was opened, state that the account may be closed by you or us at any time.

### What you can expect

After your closing date of March 14, 2014, we'll mail you a cashier's check for the remaining balance in your account. The check will be mailed to the address we have on file within 5 business days of account closure.

### What you need to know

Any checks you've written on your Small Business checking account that are presented for payment after the account is closed will be returned unpaid. In addition, your debit card will no longer access your account after it is closed.

If your account is or becomes overdrawn, you must deposit enough cash to bring the account to a zero balance.

You'll want to make other payment arrangements to any merchants or service providers that you're currently paying electronically through an automated payment.

If you have a Small Business Credit Card, you will receive a separate notice regarding the status of that account.

### Questions?

Please call us with any questions at **1.800.626.2472**, Monday through Friday from 8 a.m. to 8 p.m. Eastern and Saturday from 8 a.m. to 5 p.m. Eastern.

January 14, 2014

RE: Closure of your Bank of America Relationship

Pursuant to your recent conversation with your client manager, Bank of America (the "Bank") has determined that it wishes to close your relationship (accounts and services) in accordance with the deadlines outlined below.

**Deposit accounts:** When you opened your deposit accounts you signed a signature card and received a copy of the booklet which stated the terms and conditions under which your accounts with the Bank would operate. Both the signature card and the booklet provide that you or the Bank may close your accounts at any time, with or without notice.

I am writing to advise you that we are closing the following Bank of America accounts and terminating all treasury management services effective February 28, 2014.

XXXXXXXX  
XXXXXXXX  
XXXXXXXX  
XXXXXXXX

On and after that date, we will not honor any withdrawals, funds transfers, checks or other transactions with respect to the accounts with the exception of any checks as to which we are a holder in due course and which have not been posted against your accounts prior to the closure date.

Please remember to contact any company that makes electronic debits or credits to your accounts to make other arrangements. In the meantime, we will pay checks and release funds against the accounts only upon our verification of sufficient collected and available funds in the accounts. Any checks or funds transfer requests that will result in a negative collected and available balance in the accounts will be returned.

Shortly after any account is closed, the Bank will send a check to the address of record for the remaining positive balance, unless you and the Bank agree on an alternative method of payment. Any checks or other funds transfer requests received after the closure date will be returned "Account Closed".

Your obligations under our account agreement, the Treasury Management Terms and Conditions, and any other agreements which arise prior to closure of the accounts will survive the closure.

January 14, 2014

RE: Closure of your Bank of America Relationship

Continued

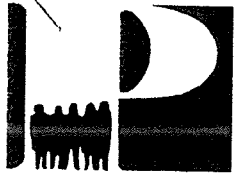
We thank you for the opportunity to serve your business needs in the past and for your prompt attention in this matter.

Sincerely,

Account Closures Team  
Special\_Focus\_Client\_Closures @ bankofamerica.com  
980.388.1390

Page 2 of 2

"Bank of America Merrill Lynch" is the marketing name for the global banking and global markets businesses of Bank of America Corporation. Lending, derivatives, and other commercial banking activities are performed globally by banking affiliates of Bank of America Corporation, including Bank of America, N.A., member FDIC. Securities, strategic advisory, and other investment banking activities are performed globally by investment banking affiliates of Bank of America Corporation ("Investment Banking Affiliates"), including, in the United States, Merrill Lynch, Pierce, Fenner & Smith Incorporated and Merrill Lynch Professional Clearing Corp., both of which are registered broker-dealers and members of FINRA and SIPC, and, in other jurisdictions, by locally registered entities. Investment products offered by Investment Banking Affiliates. Are Not FDIC Insured \*May Lose Value\* Are Not Bank Guaranteed ©2012 Bank of America Corporation.



# Peoples Credit Union

*The Community Credit Union*

02/18/2014

## LOCATIONS

### PEMBROKE PINES

Corporate Headquarters  
9560 Pines Blvd.  
Pembroke Pines, FL 33024

### BISCAYNE

11645 Biscayne Blvd.  
Suite 101  
North Miami, FL 33181

### HIALEAH

8200 W. 33 Avenue  
Bay 11  
Hialeah, FL 33018

### MIAMI

6301 Biscayne Blvd.  
Miami, FL 33138

### MIAMI BEACH

Mount Sinai Medical Center  
4300 Alton Road  
Miami Beach, FL 33140

### NORTH MIAMI

680 N.E. 124th Street  
North Miami, FL 33161

## CALL CENTER

MIAMI-DADE  
(305) 893-4880  
BROWARD  
(954) 704-4100

## WEB SITE

[www.pcufila.org](http://www.pcufila.org)

## E-MAIL

[contactus@peopcu.org](mailto:contactus@peopcu.org)

Re: Account(s) closure

Dear [REDACTED]

Please be informed that a business decision has been made to close your account with Peoples Credit Union. You have until April 18, 2014, to close the account. If it is not closed by that day, a check will be mailed to the address on file.

If you have any questions or concerns please feel free to contact the Credit Union at (954) 704-4100 or (305) 893-4880.

Peoples Credit Union Management



February 26, 2014



Subject: Notification of Account Closure(s) ending in:

Dear,

We are unable to effectively manage your Account(s) on a level consistent with the heightened scrutiny required by our regulators for money service businesses due to the transactional characteristics of your business.

For this reason, please be advised that Hancock Bank|Whitney Bank is hereby exercising its contractual right, as set forth in the Terms and Conditions of the governing Deposit Agreement, to close the above referenced Account effective thirty (30) days from the date of this letter. Accordingly, we request that you accept this letter as official notification that Hancock Bank|Whitney Bank will no longer host the referenced Account(s). Please make the necessary arrangements to establish other banking relationships so the closing of this Account(s) will not unduly inconvenience you.

Any funds remaining in the Account(s) after the thirtieth day will be mailed to you at the address listed on the Account(s). Closing of the Account(s) does not release you from the payment of accrued fees or for other obligations incurred before closing (including obligations incurred in the process of closing out the Account(s), or for your liability on outstanding items.

We expect that this will provide you with sufficient time to move the Account(s) to another financial institution.

Your cooperation in this matter is appreciated.

Respectfully,

*Nycole McKissack*

Nycole McKissack





Wells Fargo Bank, N.A.  
EMCC-3.3.14  
P.O. Box 5104  
Sioux Falls, SD 57117-5104

March 03, 2014

Subject: Termination of Deposit Account(s) and Treasury Management Relationship

Last 4 digits of account(s):

Dear Customer,

Wells Fargo performs ongoing reviews of its account relationships in connection with the Bank's responsibilities to oversee its banking operations. After careful review, a business decision has been made to close your account(s) referenced above and terminate all related Treasury Management services (e.g. ACH origination services) associated with the above accounts.

We are writing today to let you know that the account(s) and related Treasury Management services and agreements will be terminated on **May 6, 2014**. We apologize for any inconvenience that this change may cause you. Please use this time period to make alternative banking arrangements with another financial institution.

As you make your alternative arrangements, please keep the following in mind:

- Following closure of the above mentioned account(s), a cashier's check for all remaining collected and available funds in the referenced account(s) will be mailed to the last address of record for your company within ten (10) business days of the date the account is closed. Uncollected funds, if any, will be forwarded after collection. Any related products or services associated with this account will also be closed.
- On the account closure date, monetary transactions on the account(s) will be blocked. This means:
  - Up until **May 6, 2014**, no checks or other orders of withdrawal presented for payment will be paid unless the account in question at the time of presentment contains sufficient collected and available funds to cover the checks or orders of withdrawal presented at the time. Checks drawn on your account which are present after **May 6, 2014** will be returned unpaid.
  - If any funds are directly deposited to this account, these deposits will no longer be accepted after the account is closed.
  - Any automatic payments from this account will be discontinued as of **May 6, 2014**.

If you have any questions, please contact your Business relationship manager.

Sincerely,

C. Alan Chudoba  
Business Banking Group Risk Manager



March 18, 2014

Dear ,

Fifth Third Bank recently performed an industry review to evaluate risk characteristics associated with typical customers as well as industry trends. Such a review can result in decisions to modify policies or controls, set concentration limits or exit an industry outside our risk tolerance.

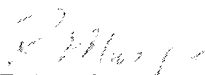
During recent reviews of the payday lending industry, we have determined that the services provided by clients in this industry are outside of our risk tolerance. As such, we will no longer be able to provide financial services to businesses that operate in that industry. This decision impacts your business and will necessitate the closing of your accounts.

**Next Steps**

The complexity of closing your Fifth Third Bank accounts and transitioning services is unique to your situation, and Fifth Third Bank is committed to helping you through this transition. This work will need to begin immediately. Our intention is to exit the business relationships by June 30, 2014. We understand that in some cases, the complexity of services may require a longer exit timeline.

We will work with you to schedule a meeting in the coming days to formalize the transition plan.

Sincerely,

  
Robert Mangers  
Vice President

  
Neil Mesch  
Senior Vice President



March 14, 2014

Dear

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Sincerely,

Natan Milgrom  
Natan.milgrom@53.com  
216-274-5908

Bill Burke  
Bill.Burke@53.com  
216-274-5856





March 6, 2014

Dear Mr.

Fifth Third Bank recently performed an industry review to evaluate risk characteristics associated with typical customers as well as industry trends. Such a review can result in decisions to modify policies or controls, set concentration limits or exit an industry outside our risk tolerance.

During recent reviews of the payday lending industry, we have determined that the services provided by clients in this industry are outside of our risk tolerance. As such, we will no longer be able to provide financial services to businesses that operate in that industry. This decision impacts your business and will necessitate the closing of your accounts.

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We will work with you to schedule a meeting in the coming days to formalize the transition plan.

Sincerely,

A handwritten signature in cursive script that reads 'Marti Lowe'.

Marti Lowe  
Relationship Manager  
Fifth Third Bank  
2500 N. Dallas Pkwy, Ste 533  
Plano, Texas 75093  
972-543-1369  
marti.lowe@53.com

A handwritten signature in cursive script that reads 'Kurt Steves'.

Kurt Steves  
Managing Director  
Fifth Third Bank  
2500 N. Dallas Pkwy, Ste 533  
Plano, Texas 75093  
972-535-0988  
kurt.steves@53.com